

# **EXHIBIT 32**

1 STATE OF MICHIGAN  
2 IN THE 71-A DISTRICT COURT FOR THE COUNTY OF LAPEER  
3 PEOPLE OF THE STATE OF MICHIGAN,  
4 Plaintiff, HON. LAURA CHEGER BARNARD  
5 v District No. 16-1385-FY  
6 TODD ANTHONY COURSER, Circuit No. 17-013022-FH  
7 Defendant,  
8 \_\_\_\_\_/ VOLUME 1 OF 2

9 PRELIMINARY EXAMINATION HEARING  
10 BEFORE HON. LAURA CHEGER BARNARD, DISTRICT JUDGE  
11 Lapeer, Michigan - Monday, October 9, 2017

12 APPEARANCES:

13 For the People: GREGORY TOWNSEND (P35857)  
14 DENISE M. HART (P45127)  
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23 \* \* \*

24 RECORDED BY: Shelley Lee, CEO 5171

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1 WITNESSES: PAGE:

2 BENJAMIN GRAHAM

3 Direct Examination by Mr. Townsend 6

4 Cross-Examination by Mr. DePerno 55

5 \* \* \*

6 OTHER MATERIAL IN TRANSCRIPT:

7 \*\*\* None Presented \*\*\*

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1	<u>EXHIBITS:</u>	<u>IDENTIFIED RECEIVED</u>
2	Ppl Ex 1 Transcript of May 19,	
3	2015 Recording	20 21
4	Ppl Ex 2 E-mail from Immanuel	
5	Eickhold	48 48
6		
7	Df Ex 3 E-mail "More trouble	
8	in Paradise"	73 83
9	Df Ex 4 **Not identified	-- 83
10	Df Ex 5 E-mail from Keith Allard	
11	with 13 attachments	75 83
12	Df Ex 6 E-mail from Keith Allard	
13	dated 8-28-15	79 --
14	Df Ex 7 Text Message from Keith	
15	Allard	86 --
16	Df Ex 8 Email of 4-12-15 between	
17	Todd Courser and	
18	his mother	93 98
19	Df Ex 9 E-mail between Todd	
20	Courser and his brother	99 --
21	* * *	

Lapeer, Michigan

Monday, October 9, 2017

10:10 A.M.

\* \* \*

THE COURT: Preliminary  
Examination. Are the People ready to proceed?

MR. TOWNSEND: People are, your  
Honor.

THE COURT: But the computer isn't.

COURT CLERK: Okay.

THE COURT: Is it ready?

COURT CLERK: It's ready, yes.

THE COURT: State your names for  
the record.

MS. HART: Thank you, your Honor.  
Assistant Attorney General Denise Hart on behalf  
of the People.

MR. TOWNSEND: And good morning.  
Greg Townsend, Assistant Attorney General on  
behalf of the People of the State of Michigan.

MR. DePERNO: Matthew DePerno on  
behalf of the defendant Todd Courser.

THE COURT: Okay. You can call  
your first witness.

MS. HART: Your Honor, the People

1 call Benjamin Graham.

2 THE COURT: And just for the  
3 record, there was one witness who was out of  
4 state, and I've excused his appearance for today.

5 MR. TOWNSEND: Your Honor, I would  
6 indicate to the Court there's an attorney here on  
7 that motion. I would ask the Court permission to  
8 allow him to be excused if --

9 THE COURT: Absolutely.

10 MR. TOWNSEND: -- he wishes to be  
11 excused.

12 THE COURT: You're all set.

13 UNKNOWN SPEAKER: Thank you, your  
14 Honor.

15 THE COURT: We tried to get a hold  
16 of you Friday to let you know, but  
17 miscommunication.

18 UNKNOWN SPEAKER: Okay. Thank you,  
19 your Honor.

20 MR. TOWNSEND: Mr. Graham.

21 THE COURT: Raise your right hand.  
22 Do you solemnly swear the testimony you're about  
23 to give in the cause now pending is the truth, so  
24 help you God?

25 MR. GRAHAM: I do.

1 B E N J A M I N G R A H A M

2 (At 10:11 a.m., sworn as a witness, testified  
3 as follows:)

4 THE COURT: Please watch your step,  
5 be seated, and spell your last name for the court  
6 reporter.

7 THE WITNESS: Last name is  
8 Graham -- G-r-a-h-a-m.

9 COURT CLERK: First name?

10 THE WITNESS: Ben.

11 COURT CLERK: Ben?

12 THE WITNESS: Full name?

13 COURT CLERK: Yes.

14 THE WITNESS: Benjamin --  
15 B-e-n-j-a-m-i-n.

16 COURT CLERK: Thank you.

17 MR. TOWNSEND: May I --

18 THE COURT: Go ahead.

19 MR. TOWNSEND: May I proceed?

20 THE COURT: Yep.

21 DIRECT EXAMINATION

22 BY MR. TOWNSEND:

23 Q Good morning, Mr. Graham.

24 A Good morning.

25 Q How are you?

1 A I'm good.

2 Q Good. I just -- well, I have several questions I  
3 want to ask you with regard to the situation.

4 First of all, can I ask you how you were  
5 employed back in 2015?

6 A In 2015, I was hired on January 2nd by the State  
7 House of Representatives.

8 Q Okay. And can you tell the Court, first of all,  
9 if you know an individual by the name of Todd  
10 Courser?

11 A I do.

12 Q If you saw that person again, would you be able  
13 to identify him?

14 A Yes.

15 Q Is he in the courtroom today?

16 A Yes.

17 Q Can you please point to him and tell the Court  
18 what he's wearing?

19 A He's right there, and he's wearing a brown blazer  
20 and a blue shirt.

21 MR. TOWNSEND: Your Honor, let the  
22 record reflect the witness has pointed to and  
23 identified the defendant Todd Courser?

24 THE COURT: The record will so  
25 indicate.



1 Q (Continuing by Mr. Townsend) Sir, can I get some  
2 background? How did you know Mr. Courser?

3 A I met Mr. Courser in -- when I was 17. He was  
4 running for state rep here in Lapeer at that  
5 time, and I got to know him through that  
6 campaign, and assisted on that campaign. And I  
7 assisted on quite a few of his campaigns, all the  
8 way up until 2014, when he won his election to  
9 the State House of Representatives.

10 Q Did you work for him on the -- for the 2014  
11 election?

12 A I did. My consulting firm, Bellwether --

13 Q All right.

14 A -- Strategies did.

15 Q Okay. Now, was he a repre -- well, give me his  
16 job title he --

17 A State --

18 Q -- was elected to.

19 A State Representative in the 82nd District.

20 Q Okay. And that's for the State of Michigan?

21 A Correct.

22 Q So he's an elected public official, am I correct?

23 A Yes, sir.

24 Q All right. How -- did you get to work for him in  
25 the legislature?

1 A Yes. I was employed by the State House -- the  
2 State House of Representatives in the 82nd  
3 District. Representative Courser was my direct  
4 supervisor.

5 Q Okay. And do you know -- did you know a Cindy  
6 Gamrat?

7 A Yes.

8 Q How did you know her?

9 A I got to know her during some political campaign  
10 as well. Representative Mr. Courser ran for  
11 State -- state chair of the Michigan GOP, and Ms.  
12 Gamrat was a -- was our co-chair candidate. I  
13 got to know her through that, and also worked on  
14 her campaign through my consulting firm in 2014.

15 Q All right. Did you know whether or not Ms.  
16 Gamrat at that time, if you knew whether she was  
17 married or not?

18 A She was married at that time.

19 Q Did you know whether or not the defendant was  
20 married or not at that time?

21 A Yes, he was married.

22 Q Did there come a point in time that you  
23 discovered or come to find out that they were  
24 having an extramarital affair with each other?

25 A Yes. We had suspicions during the majority of

1 our time while we worked in Lansing. But a few  
2 weeks before May 19th, it was confirmed to me by  
3 Ms. Gamrat's husband, that he had confirmed that  
4 they were indeed having an affair.

5 Q And now we talked about May 19th. Prior to May  
6 19th of 2015, can you tell us about your  
7 relationship with the defendant?

8 A I --

9 Q And how it progressed or decreased up to May  
10 19th, if you could?

11 A Yes. During -- I had known Mr. Courser for  
12 quite -- quite some time. I thought of him as a  
13 friend. Once he hired me to work in his office  
14 in Lansing, our relationship quickly  
15 deteriorated.

16 Q In what way and why?

17 A Because of the affair, there was a lot of stress  
18 in the office regarding just a lot of perceived  
19 slights, and just it became a work environment  
20 where the expectations were not in line with what  
21 we were able to deliver.

22 Q Okay. During that period of time, prior to the  
23 time that you confirmed the fact that they had an  
24 extramarital affair, were there signs of things  
25 going on between the defendant and Ms. Gamrat?

1 A Yes, sir.

2 Q Can you tell the Court about that?

3 A There were times where Mr. Courser and Mrs.  
4 Gamrat would spend extended periods of time in  
5 their back office with the door closed and  
6 locked. There was long embraces. He would give  
7 her foot massages. They would take long walks in  
8 the afternoon.

9 They would go back to their hotel rooms  
10 after session, which were in the same hotel, and  
11 come back several hours later with changed  
12 clothes, and various other things that just lead  
13 us to believe that they were having an  
14 inappropriate relationship.

15 Q Did you see whether or not there was an  
16 increasing stress level on the defendant during  
17 this period of time?

18 A Oh, yeah. Yes, definitely.

19 Q Could you explain to the Court?

20 A Their -- previous to May 19th, as I said, Ms.  
21 Gamrat's husband confirmed to me that they were  
22 having an affair, and that he had discovered it,  
23 and he had confronted them about it. And after  
24 that, there was quite a lot of stress in the  
25 office. Both Mr. Courser and Mrs. Gamrat would

1           come in disheveled and in a mood that suggested  
2           that they were very, very stressed.

3 Q       Were you concerned at all during this time of the  
4           mental stability of the defendant?

5 A       I was, yeah. And I thought that -- the events of  
6           May 19th, is what lead me to believe that he was  
7           mentally unstable.

8 Q       Okay. There came a point in time -- and I want  
9           to directly go to May 19th of 2015. Did there  
10          come a time on that day that you were contacted  
11          by the defendant?

12 A       Yes, sir.

13 Q       Tell the -- could you go into detail, and explain  
14          to the Court what that was?

15                       MR. DePERNO: Objection, your  
16                       Honor. My understanding is there is an audio  
17                       recording of the meeting on May 19th, and that  
18                       would be the best evidence of that meeting, as  
19                       opposed to Mr. Graham's testimony.

20                       THE COURT: Response?

21                       MR. TOWNSEND: Your Honor, I would  
22                       indicate that indeed there is a recording, and  
23                       indeed there is a transcript of what transpired  
24                       during the course of that meeting. I do not  
25                       believe that there's anything with regard to

1       that, as to how it came about to go into the  
2       meeting. And I think it would be necessary to  
3       explain that or lay the foundation for the  
4       communications.

5                   THE COURT: I'll let you lay the  
6       foundation, and then we'll go from there.

7                   MR. TOWNSEND: Thank you.

8 Q       (Continuing by Mr. Townsend) Go ahead.

9 A       On May 19th, I was at home. Around 9:30 I  
10       received a call from Mr. Courser. It was after  
11       business hours. And as I said, our relationship  
12       had deteriorated to the point where I wasn't  
13       accepting calls from him after business hours,  
14       because it was a business relationship at that  
15       point only.

16                So I let that go to voicemail. He left  
17       a message that said he needed me to call him  
18       immediately. He sounded stressed.

19 Q       First of all, when you heard the voice -- for  
20       many years you've known the defendant; yes?

21 A       Yes, definitely.

22 Q       Are you familiar with the defendant's voice or,  
23       you know, when you hear it, you know it was the  
24       defendant?

25 A       Yes, sir.

1 Q When you talked to him that night, was that the  
2 defendant's voice that you heard?

3 A Absolutely.

4 Q Continue.

5 A He left me a message, said he needed me to call  
6 him immediately. I called him back. And he  
7 would not speak at length, but said that he  
8 needed me to come to his Lapeer law office  
9 immediately. And he said that he needed me to  
10 come there because he needed me to destroyed him.

11 Q He needed you to destroy him?

12 A He needed me to destroy him.

13 Q What did you think at that point?

14 A I was very worried. I -- I said, what -- what do  
15 you mean you need me to destroy you? And he  
16 said, I can't speak anymore, you need to come to  
17 my office.

18 Q And after that, was that the extent of the  
19 conversation --

20 A Yeah.

21 Q -- at that point?

22 A Yes, sir.

23 Q What did you do as a result of that conversation?

24 A As I said, I was concerned. It doesn't seem to  
25 me that someone in a sound state of mind would

1 say I need you to destroy me.

2 I called some co-workers that worked  
3 with me at the House at that time.

4 Q Who's that?

5 A Keith Allard and Joshua Cline.

6 Q Okay. What did you do at that point?

7 A We spoke on the call regarding Mr. Courser's  
8 call, and his request that I come to his office.

9 Q And did you decide to go to his office?

10 A I did.

11 Q Why?

12 A I felt at that point I really didn't have a  
13 choice.

14 Q Okay.

15 A He was my supervisor, and I felt that my job  
16 could be at risk if I didn't go, and I needed my  
17 job.

18 Q Were you concerned about going?

19 A I was, yeah. I was -- as I said, someone in a  
20 sound state of mind doesn't say I need you to  
21 destroy me.

22 Q I believe I was reading in earlier transcripts  
23 and stuff, something that you had -- somebody may  
24 have been at a suicidal ideation?

25 A I definitely thought that he could have been



1 suicidal at that point. As I said, destroy me is  
2 very strong language, and either sounds like, you  
3 know, he could commit suicide or possibly harm me  
4 as well.

5 Q Okay. And so this is -- when you went there as a  
6 result of him being your boss and on account of  
7 your business-related situation --

8 A Um-hum (affirmatively).

9 Q Is that a yes?

10 A Yes, sir.

11 Q Okay. You can't go um-hum (affirmatively).

12 A Yes.

13 Q They're there, they're taking it down, they're --

14 A Yes.

15 Q -- recording it. It's very difficult to record  
16 um-hum (affirmatively). So we need to make sure  
17 you get the words out there correctly.

18 A Yes, sir.

19 Q All right. Do you know whether or not the  
20 defendant had any weapons?

21 A Yes, yeah. He kept -- I know he kept several  
22 weapons at his office in Lapeer. I know that he  
23 kept a loaded handgun in his desk.

24 Q Were you concerned about that?

25 A I was. I felt that he was unstable. And to have

1 a loaded weapon that close when you're in an  
2 emotionally and mentally unstable situation, is  
3 definitely dangerous.

4 Q Okay. Now, you decided to take that interview --  
5 or, that interview. That meeting; is that  
6 correct?

7 A Yes, sir.

8 Q Tell the Court why -- well, first of all, who you  
9 talked about it with, and why you -- or, a  
10 decision was made, and whose decision it was to  
11 do that.

12 A Yes, sir.

13 Q Go into detail for me.

14 A As I said, I -- I spoke with Keith Allard and  
15 Josh Cline that evening, and we had a discussion  
16 about if I should go, if I shouldn't go. It was  
17 decided by me that I needed to go, because of,  
18 you know, I thought my job could be at risk if I  
19 didn't.

20 Then we discussed his mental state and  
21 how we thought the request that I destroy him was  
22 very concerning. And Mr. Allard suggested that I  
23 tape the -- tape-record the conversation. I  
24 thought that was a very good idea, considering  
25 the circumstances.

1 Q Did he tell you to tape it?

2 A No.

3 Q Did he order you to tape it?

4 A No.

5 Q Whose decision was it to tape it?

6 A Mine.

7 Q Okay. Go ahead. For what reason?

8 A I -- I felt that he was mentally unstable, and I  
9 felt that I needed to have evidence of whatever  
10 happened there. I didn't want to be there with a  
11 smoking gun and a dead body and not have any --  
12 any way to explain it.

13 Q All right. So you went there. And can you tell  
14 the Court what time it was that you decided to go  
15 there?

16 A I believe I arrived at his Lapeer law office  
17 around ten o'clock.

18 Q And can you tell the Court exactly where that's  
19 located?

20 A It's on Main Street, on M-24, near KFC and across  
21 from McDonald's.

22 Q Okay. Within the city limits of the City of  
23 Lapeer?

24 A Yes, sir.

25 Q Okay. So when did you start the tape?

1 A I started the tape in my car, before I got out of  
2 my car and walked into the office.

3 Q Was the entire -- during that -- or, how long  
4 were you there?

5 A Approximately an hour and a half.

6 Q Okay. During that entire hour and a half, was  
7 the tape running?

8 A Yes, sir.

9 Q So is -- everything that transpired in that  
10 office that night, was taped?

11 A Yes, sir. I didn't turn it off until I got back  
12 into my car.

13 Q Okay. And have you heard the recording?

14 A Yes, sir.

15 Q Okay. And have you seen the transcript?

16 A Yes, sir.

17 MR. TOWNSEND: May I approach the  
18 witness, your Honor?

19 THE COURT: Go ahead.

20 MR. TOWNSEND: I'll show you what's  
21 been marked as People's Proposed Exhibit Number  
22 1.

23 Mr. DePerno, I believe we show Mr.  
24 DePerno first.

25 MR. DePERNO: I object to the

1 transcript being entered. I don't think there's  
2 any -- whoever took the transcript should have to  
3 be here to --

4 MS. HART: Wait. Let me see it.

5 MR. DePERNO: -- testify to its  
6 authenticity if they're testifying that that's  
7 the transcript regarding the recording.

8 MR. TOWNSEND: Your Honor, I would  
9 indicate that on the last page, Page 51, if the  
10 Court wishes to review it, there is a  
11 certification by Andrea Thor, indicating that  
12 it's a certified transcript.

13 THE COURT: Okay. For purposes of  
14 preliminary examination only, I'll admit the  
15 transcript based upon the certification of the  
16 transcriber.

17 MR. TOWNSEND: Okay.

18 (Whereupon People's Exhibit Number  
19 1 was received into evidence.)

20 Q (Continuing by Mr. Townsend) And you read this,  
21 right?

22 A Yes, sir.

23 Q And when you read it, is it a fair and accurate  
24 representation of what transpired within the --  
25 in the office that day?

1 A Yes, sir.

2 MR. TOWNSEND: Okay. Now, your  
3 Honor, at this point, Mr. DePerno had made an  
4 objection. I'd like to go into the details of  
5 the meeting itself. It is on the transcriber. I  
6 don't know if the Court wishes me to proceed  
7 going -- answering in this order, or if the Court  
8 just wants to review the transcript itself?

9 THE COURT: Let me review the  
10 transcript, and you can proceed at this point in  
11 time. Just keep it short.

12 MR. TOWNSEND: I'll try.

13 MR. DePERNO: Your Honor, if I  
14 could, I object on the grounds that the  
15 prosecution hasn't turned over the actual  
16 recording.

17 THE COURT: That didn't happen yet?

18 MR. DePERNO: No, it has not.

19 MS. HART: Oh, it certainly did.

20 MR. DePERNO: It has not. And in  
21 fact, their expert witness has now stated in a  
22 letter that the prosecution or the police never  
23 took a copy of the recording, so --

24 THE COURT: Okay. This is all --

25 MR. DePERNO: -- I don't know what

1 to say.

2 THE COURT: This is all news to  
3 everybody here. What's going on? Did you  
4 believe that a copy of the recording was sent to  
5 Mr. DePerno?

6 MR. TOWNSEND: I know a copy was  
7 sent to Mr. DePerno.

8 MS. HART: It's in the House  
9 report.

10 MR. TOWNSEND: It was in the House  
11 report.

12 THE COURT: You didn't get it?

13 MR. DePERNO: We do not have a copy  
14 of the transcript -- or, we don't have a copy of  
15 the recording.

16 THE COURT: You don't have a copy  
17 of the recording?

18 MR. DePERNO: Right.

19 THE COURT: You have a copy of the  
20 transcript?

21 MR. DePERNO: We've seen the  
22 transcript, but we can't verify the transcript --

23 THE COURT: Okay.

24 MR. DePERNO: -- as to the  
25 recording.

1 THE COURT: Okay. Then I want to  
2 find out what happened to the recording. You  
3 believe that the recording was sent to Mr.  
4 DePerno?

5 MR. TOWNSEND: I know it was. I  
6 know he has it.

7 THE COURT: Okay.

8 MR. TOWNSEND: It's not an if.  
9 He's got it. It's part -- it's part of the  
10 House -- it was part of the House -- the initial  
11 House information that was given. He was given a  
12 copy of every single transcript or tape that we  
13 had.

14 MS. HART: Just one moment.

15 MR. DePERNO: Not true. One of our  
16 witnesses here today, Colleen Auer-Lemke will  
17 have to testify that as she has written in her  
18 police reports and has -- she's now indicated in  
19 the -- a document, an e-mail that we've obtained,  
20 that the police never took that recording. They  
21 claim they have observed it, but didn't copy it.

22 THE COURT: Observed it. You mean  
23 it's a -- is it a video, or is it just a --

24 MR. TOWNSEND: It's verbal. It's a  
25 verbal recording.



1 MR. DePERNO: It's a recording.

2 THE COURT: Verbal recording.

3 Okay.

4 MR. TOWNSEND: Can I just say  
5 something, your Honor?

6 THE COURT: Sure, go ahead.

7 MR. TOWNSEND: We had a three-day  
8 preliminary examination in Ingham County.

9 THE COURT: Okay.

10 MR. TOWNSEND: This is the first  
11 time we have ever heard about this allegation.

12 THE COURT: Okay. Well, this is a  
13 preliminary examination. As we discussed back in  
14 chambers, it's not going to be finished today.  
15 We're going to try to get through the witnesses  
16 that are here, so they don't have to be coming  
17 back to Lapeer County. And there are  
18 negotiations with respect to what is an end game  
19 on this particular case.

20 I want to make sure that a copy of the  
21 recording goes to Mr. DePerno, even though it's  
22 already been sent to him. I want to make sure  
23 that -- oop, there we go. How's that?

24 I'm going to allow him to proceed, but  
25 I'm going to reserve any kind of

1 cross-examination after you've had a chance to  
2 review the recording, too. We'll keep this open  
3 at this point.

4 MR. TOWNSEND: I would indicate,  
5 just so Mr. DePerno knows, this is a copy of all  
6 the taped statements that were made; the one  
7 there in Lapeer, the other ones that were in the  
8 offices of the defendant, and Mrs. Gamrat.

9 THE COURT: Okay. So some of them  
10 were in Ingham County, some of them were Lapeer  
11 County?

12 MR. TOWNSEND: Right.

13 THE COURT: Okay. So it's noted  
14 for the record, they're received in court. It  
15 looks like a disk of some type that has the audio  
16 recording of the Lapeer interview and of the  
17 discussion in Ingham County.

18 MR. TOWNSEND: Right.

19 THE COURT: So both of them are on  
20 there.

21 MR. TOWNSEND: Can the defendant  
22 acknowledge receipt of this?

23 MR. DePERNO: I have a disk in my  
24 hand, labeled MSP, 1st District HQ, Incident  
25 Number 10-715-15, Courser/Gamrat/Graham audio

1 recordings.

2 THE COURT: Okay. Thank you.

3 MR. DePERNO: Okay.

4 THE COURT: And we'll just make  
5 sure that it's functioning, and leave that door  
6 open if you have any type of recross or --

7 MR. TOWNSEND: Right.

8 THE COURT: -- clarification that  
9 needs to be done as a result of your hearing and  
10 comparing with the transcript that's been  
11 admitted for purposes --

12 MR. TOWNSEND: Your Honor.

13 THE COURT: -- of preliminary  
14 examination only.

15 MR. TOWNSEND: Could I ask --

16 MR. DePERNO: Thank you.

17 MR. TOWNSEND: Could I ask -- could  
18 I ask permission of the Court to allow the  
19 defendant and his counsel to listen to the tape  
20 now? Because we've got several witnesses, so he  
21 can say that he's --

22 THE COURT: Is it going to be an  
23 hour and a half, Counselor?

24 MR. TOWNSEND: Oh, probably.

25 MR. DePERNO: Probably.

1 THE COURT: No, no. We don't want  
2 to do that.

3 How big is the transcript? It looked  
4 like you were holding up something that was about  
5 ten pages. That's it?

6 MR. TOWNSEND: There's four pages.

7 MS. HART: There's four pages per  
8 page.

9 MR. DePERNO: There's four pages  
10 per page.

11 THE COURT: Four pages. Okay.

12 MR. TOWNSEND: There is one I have.  
13 Can I get it marked? Could you look through  
14 those to see if it's marked at all? Is --

15 MR. DePERNO: I got it.

16 MR. TOWNSEND: May I approach the  
17 witness, your Honor?

18 THE COURT: Go right ahead.

19 Q (Continuing by Mr. Townsend) I'm going to go  
20 through certain -- certain parts of the  
21 transcript. Now, you've read this transcript,  
22 and it's accurate as to what had transpired; yes?

23 A Yes, sir.

24 Q All right. Tell us how it began when you walked  
25 in there.

1 A I walked in, and I -- I went to Mr. Courser's  
2 back office, and I asked him what's going on.  
3 And he proceeded to tell me that he'd received  
4 some -- some text messages that were threatening  
5 to reveal his affair with Representative Gamrat.

6 Q Did he go into detail at all about this?

7 A He did. He showed me one of them.

8 Q And do you recall what it said?

9 A I couldn't say with certainty what the text said.  
10 It was over two years ago.

11 Q All right. Go ahead.

12 A He proceeded to tell me about these text messages  
13 that he received. And he believed that there was  
14 a strong possibility that whoever had sent these  
15 text messages would reveal his affair to the  
16 general public.

17 Q All right. Continue.

18 A He also proceeded to justify his affair by saying  
19 his wife had had previous affairs, and that she  
20 had some sort of mental disorder that he related  
21 to Aspergers.

22 Q Did he go into detail about what he wanted you to  
23 do?

24 A Yes. He said that he had written an e-mail that  
25 he wanted to have sent to a wide -- a wide swath

1 of people. We had an e-mail list numbering in  
2 the tens of thousands of e-mails from across the  
3 state. And he wanted to have that e-mail sent to  
4 those people as a -- as a distraction from  
5 what -- from his affair coming out with  
6 Representative Gamrat.

7 Q Okay. And if you go to Page 13 --

8 A Um-hum (affirmatively).

9 Q -- in the transcript, do you have that? Go down  
10 to Line --

11 A Page 13?

12 Q The line that --

13 A I'm sorry, Page 13?

14 Q Thirteen.

15 MS. HART: There's four pages.

16 MR. TOWNSEND: There's four pages  
17 on each.

18 THE WITNESS: There's four pages.  
19 Okay. One -- okay. So we're talking about the  
20 fourth page of paper that I have?

21 MR. TOWNSEND: Well...

22 THE WITNESS: I'm sorry.

23 Q (Continuing by Mr. Townsend) That's all right.

24 Do you see where it says Page 13?

25 A Yes, I got it.

1 Q I want you to look at Line 20 -- or, actually 18,  
2 and tell me -- before you read that section I'm  
3 going to want you to read, is that what you were  
4 talking about?

5 A I'm sorry, can you repeat that question?

6 Q Yes. Just read that section.

7 A Okay.

8 Q Tell me what it's about.

9 A Okay. Line 19 and 20?

10 Q Yeah. He says, "Like tricky stuff. Tricky  
11 stuff. The GPSing just gets really weird stuff."  
12 (sic).

13 A Um-hum (affirmatively).

14 Q Okay. What was that all about?

15 A I don't -- it appears that he thinks people are  
16 tracking him.

17 Q Okay. And then he later says -- well, read out  
18 loud the next several paragraphs, would you?

19 A Starting at 19?

20 Q Sure, yeah.

21 A "So GPSing just gets really weird stuff.

22 So I've come down to this and we can  
23 sit here all night. I've come down to  
24 that the way to handle it is to do a  
25 controlled burn of me." (sic)

1 Q Okay. Hold on. When he said controlled burn to  
2 you, does he go further on to explain what he  
3 meant a controlled burn of himself?

4 A Yes, I believe so.

5 Q Okay. What was -- what is it?

6 A Yes.

7 Q What's a controlled burn?

8 A A controlled burn, what he was referring to was  
9 sending out this e-mail that would muddy the  
10 waters if his allegations of his affair were to  
11 come out with Representative Gamrat. Basically  
12 that because this e-mail had been sent out, it  
13 would be perceived as part of a larger smear  
14 campaign that nobody would believe.

15 Q Would I be correct in assessing that this e-mail  
16 that he wanted you to send out was so outrageous  
17 that --

18 A Yes.

19 Q -- nobody's going to buy anything else?

20 A Yes. It was -- it was lewd, and outrageous,  
21 and --

22 Q And we're going to get to that, okay?

23 A -- people wouldn't believe it.

24 Yes.

25 Q Okay. Continue.



1 A "So I've come down to the way to handle it is to  
2 do a controlled burn of me. It's so over-the-top  
3 that people will see it, and it will be like"...

4 Q Feel free to read it.

5 A "Holy shit, what is that? And anything that  
6 comes after that will be mild by comparison. In  
7 a controlled burn, you do a little bit of truth  
8 mixed with a lot of lies."

9 Q Keep going.

10 A I say, "Okay."

11 Mr. Courser says, "People are so  
12 disturbed they won't print it. But anything  
13 after that is going to be suspect. It will be  
14 looking like a complete smear campaign."

15 Q Continue.

16 A And then I say, "What do you have in mind?"

17 He says, "An e-mail."

18 I say, "Okay."

19 There appears to be some inaudible  
20 words --

21 Q Does he say --

22 A -- in there.

23 Q -- Line 10, "As many e-mails as we can"?

24 A Line 10? Sorry.

25 Q Page 4.

1 A Oh, any e-mails -- oh, yeah. I'm sorry, I missed  
2 that. "As many e-mails as we can."

3 I say, "Okay."

4 There's some inaudible.

5 "From a different e-mail. Rolling out  
6 of whatever, whatever the machinery would allow.  
7 Normally with this sort of thing, I would have  
8 Ike do it."

9 I say, "Um-hum (affirmatively)."

10 He says, "He's done it from gmail  
11 accounts, a series of them."

12 I say, "Yes. He told me how to do that,  
13 though. I can't remember."

14 Courser says, "The gmail account?"

15 I say, "Yes, he could do it, but  
16 would..."

17 Courser says, "Took him a long time."

18 I say, "I think he -- yeah, he told me  
19 he can only do 250 or 550 apiece." (sic)

20 Courser says, "A day or..."

21 I say, "For each of them a day, yeah."

22 Courser says, "That's what he did."

23 "So you'd have to create" -- I say, "So  
24 you'd have to create like a crap ton of them, and  
25 they're really hard to do, because they verify

1 everything with like phone numbers and stuff."

2 Courser says, "Right. You have to pay  
3 for phones and all kinds of bullshit, so..."

4 I say, "Ike did. Ike had to pay for  
5 phones or whatever?"

6 Courser says, "I think so."

7 I say, "Yeah, you probably have to have  
8 some burner phones to -- what did the -- did they  
9 say they wanted something?"

10 Courser says, "They didn't say anything.  
11 They wanted a response. I didn't respond. I  
12 don't respond to stuff like that."

13 I say, "Yeah, yeah. That's messed up."

14 Courser says, "They don't want us here,  
15 dude. I mean, it's not, you know, the whole  
16 thing with Tristan Cole up north and you just --  
17 I mean they absolutely hate it. The Speaker,  
18 he's got a wound in his side, you know. They're  
19 not there. They want something from us. They  
20 want us dead."

21 Q Okay. I'm going to refer you down to Page 16.  
22 Down at -- or, Page 16, Line 17.

23 A Yes, sir.

24 Q If you could read that for me?

25 A "You can't do this anymore. What -- what do you

1 have in mind? What's the e-mail? Did you write  
2 it yet?"

3 Courser says, "It's already written. I  
4 didn't print it."

5 There's some inaudible dialogue.

6 "I don't know what God will do, buddy.  
7 I don't have an idea on that. I thought I was  
8 dead several times before already, so not going  
9 to -- 'Todd Courser caught on tape behind Lansing  
10 nightclub'."

11 Q Is this the -- is he showing you at this point  
12 what he had written?

13 A He's reading it from his computer screen.

14 Q Go ahead.

15 A "Todd Courser caught on tape behind Lansing  
16 nightclub."

17 MR. DePERNO: Objection, your  
18 Honor. Is there a question --

19 MR. TOWNSEND: Yes.

20 MR. DePERNO: -- or are we just  
21 reading from the transcript?

22 MR. TOWNSEND: Right now...

23 Q (Continuing by Mr. Townsend) Did he -- let me  
24 see if I could help out on this. Did -- when you  
25 were talking to him, did he have an opportunity

1 to read to you the letter that he had typed?

2 A Yes, sir.

3 Q And what you're going to read now, is what he had  
4 typed, and he's reading it to you; is that  
5 correct?

6 A Correct.

7 Q Proceed.

8 A "Todd Courser caught on tape behind Lansing  
9 nightclub. In truth Courser secretly removed  
10 from caucus -- caucus several weeks ago due to a  
11 male paid on -- paid for sex." Inaudible.  
12 "Prominently in some nightclub. He's a bisexual,  
13 porn-addicted sexual deviant."

14 And then you just get end quote.

15 Courser says, "And then you just get  
16 nasty about it." Quote...

17 Q Go ahead, read it.

18 A "His cock is hanging out all over Lansing since  
19 the election. That's why he was thrown out of  
20 caucus."

21 Q When he read that to you, did you reply to him at  
22 all?

23 A Yes. I said, are you serious? What are you  
24 talking about? That's ridiculous.

25 Q All right. You read that. Did there come a

1 point in time that you had been talking and  
2 discussing with -- did there ever come a point in  
3 time when you talked, I believe using the  
4 terminology he wanted to inoculate the herd?

5 A Yes, sir.

6 Q Okay. Without reading it, just tell me what --  
7 what that was about when he talked to you about  
8 it, and what did it mean?

9 A He said that he wanted to inoculate the herd,  
10 which I understood to be another word for a  
11 controlled burn, in which he wanted to -- in an  
12 inoculation that you give to a herd of animals to  
13 keep them from getting a certain disease.  
14 Basically he wanted to give his constituents and  
15 the general public and republican delegates this  
16 e-mail, which he would -- would be a shot, to  
17 make sure that they would not succumb to the  
18 allegations of his affair with Representative  
19 Gamrat.

20 Q Would it be fair to say he wanted to lie to them?

21 A Yes. He said so.

22 Q Okay. The other side, if you go to Page 19 of  
23 the transcript, on this page read lines -- from  
24 Line 8 to Line 11.

25 A Courser: "What does this do? I need to, if

1 possible, inoculate the herd against gutter  
2 politics that are coming. Unless they have  
3 something really awful, which I do not know  
4 about, okay."

5 Q All right. And also he had talked to you on the  
6 phone earlier about he wanted you to come over  
7 and destroy him; yes?

8 A Yes, sir.

9 Q Okay. And now I want you to read from the Line  
10 21 on Page 19, to Line 1 on Page 20.

11 A Courser says, "We decided to destroy ourselves.  
12 If this is the lead in, we go for the sham -- the  
13 scam. She's working through with her husband,  
14 and they've been working through it. I'm going  
15 to go into all the details I can go into; what  
16 happened, and how I'm going to do what I can."

17 Q Okay. Now, you were so -- you were still his  
18 employee, an active state employee, correct?

19 A Yes, sir.

20 Q And the defendant was your supervisor; yes?

21 A Yes, sir.

22 Q You worked directly for him; yes?

23 A Yes, sir.

24 Q What do you -- when he's talking about this,  
25 what's going through your mind?

1 A I -- I was flabbergasted. I was maybe angry or  
2 saddened by the idea that we would seek to  
3 deceive tens of thousands of people. I was  
4 shocked and surprised.

5 Q Did there come a point in time that he's  
6 attempting to get you to do something with all of  
7 this?

8 A Yes. He wanted me to send this e-mail to a large  
9 number of e-mail addresses.

10 Q So he wanted to get you involved with this -- I  
11 guess this lie?

12 A Yes. He wanted me to cover up his affair.

13 Q Okay. Now, I want to go to Page 30, Line 9. And  
14 read it to yourself quickly. And does this deals  
15 with everything we just talked about, about how  
16 he wanted to get you involved with this?

17 A Yes, sir.

18 Q Okay. Can you -- can you read that, please?

19 A Starting at 9?

20 Q Yeah, on Page 30, and Line 9.

21 A Yes, sir.

22 "You want to do this tonight?"

23 Q No. I -- is that -- I just want to make sure we  
24 know. "You want to do this tonight", is that  
25 sending the e-mail out?



1 A Yes, sir.

2 Q Okay. Go ahead.

3 A I say, "You want to do this tonight?"

4 Courser says, "I do. You're not going  
5 to work tomorrow."

6 I say, "All right."

7 Courser says, "You're going to be sick."

8 I say, "Okay."

9 Courser says, "Got it?"

10 I say --

11 Q You're going to be sick?

12 A Yes.

13 Q Okay. Go ahead.

14 A I say, "Yeah. I'm not going to work. What am I  
15 going to do tomorrow?"

16 Courser says, "Well, you're going to --  
17 you're going to be home after this."

18 I say, "I don't know what you mean."

19 Courser says, "You're going to do this  
20 and then go home."

21 Q All right. So you're going to do this. You're  
22 going to do this e-mail, or send out an e-mail  
23 allegedly, and then you're going to go home and  
24 be sick?

25 MR. DePERNO: Objection, your

1 Honor. The witness didn't testify to that.

2 MR. TOWNSEND: I'm asking him.

3 THE COURT: He's testified as to  
4 what he said.

5 Move on.

6 Q (Continuing by Mr. Townsend) What'd you think  
7 about that? All of a sudden he's asking you to  
8 take a day off after sending this stuff out.

9 A I don't know. I thought it was -- I thought it  
10 was inappropriate. And I was still -- I was  
11 still shocked that he was asking me to do it.  
12 And I felt that --

13 Q Okay. Page 31, Line 1 through Line 7, if you  
14 could?

15 A Thirty-one?

16 Q Page 31, Line --

17 A I'm sorry, Line?

18 Q Line 1 through Line 7.

19 A I say, "I can't figure it. I mean -- I mean, I  
20 can't figure it out. It's the easiest, quickest,  
21 best way would be to just hit all the media,  
22 don't worry about the other people."

23 Courser says, "I need the other people  
24 though, because I want them to insulate. You're  
25 inoculating the whole herd."

1 I say, "This is a crazy way to deal with  
2 the situation. Normally people just front it  
3 off, head it off for themselves and say hey, this  
4 happened, or quietly resign and go away. Like  
5 that's usually what happens when this situation.  
6 So this is kind of a crazy way to do it." (sic)

7 Q All right. So after you're talking about this,  
8 did there come a point in time that you mailed  
9 them out, or you had a discussion where you're  
10 concerned, or anything like that?

11 A I did not send the e-mail, no.

12 Q Okay. What was your concern? What'd you talk to  
13 him about?

14 A Well, I told him I didn't want to be part of  
15 covering it up.

16 Q Okay. And that's all included in the transcript  
17 too, whatever your discussions were?

18 A There's some discussions there. And then after I  
19 left his office, I texted him to tell him that I  
20 couldn't be a part of it, and I couldn't be a  
21 part of covering it up.

22 Q Okay. Before you left his office, did you tell  
23 him that you -- why you wanted to leave his  
24 office without making an agreement?

25 A I told him that I wanted to think about it. I

1        felt -- I knew at that point I couldn't send it  
2        out, but I -- I didn't feel that he would let me  
3        leave unless I at least told him I would think  
4        about it.

5                    In fact, I asked -- I asked to leave I  
6        think on two or three separate occasions, and he  
7        kind of brushed that off and wouldn't let me --  
8        let me leave. So I felt that if I told him I'll  
9        think about it, that he would -- that he would  
10       let me go.

11 Q       All right. So I -- did you leave his office?

12 A       Yes.

13 Q       And there came a point in time, I believe you  
14       just indicated, you made re-contact with him;  
15       yes?

16 A       Yes. He texted me a little later in the evening,  
17       and I responded to him and said that I  
18       couldn't -- I couldn't send the e-mail, I  
19       couldn't be a part of covering up.

20 Q       All right. Do you know whether or not an e-mail  
21       was sent out?

22 A       Yes.

23 Q       And to how many people, if you know?

24 A       I do not know.

25 Q       All right. Do you know who sent that e-mail out?

1 A I do.

2 Q Who?

3 A Immanuel Eickhold.

4 Q Immanuel Eickhold?

5 A Yes.

6 Q All right. And did you get a copy of that  
7 e-mail?

8 A Yes, sir.

9 Q How did you get a copy of that e-mail?

10 A A day -- the next day or the day after that, I  
11 don't remember exactly, an intern in our office  
12 in Lansing received the e-mail from an  
13 investigative reporter from New York or something  
14 like that who had received it. I don't even know  
15 how she received it. But the interns forwarded  
16 it on to us, because he was very concerned about  
17 this type of information going around about our  
18 boss.

19 Q And in a --.

20 MR. TOWNSEND: May I approach the  
21 witness, your Honor?

22 THE COURT: Go ahead.

23 Q (Continuing by Mr. Townsend) I'm going to hand  
24 you this document that's been marked as People's  
25 Proposed 2. Please look at that, if you could.

1 MR. DePERNO: Is there a copy for  
2 me?

3 MR. TOWNSEND: I thought you had a  
4 copy.

5 MR. DePERNO: I don't.

6 MR. TOWNSEND: And that will be  
7 sent to Mr. DePerno. Did they give you this  
8 copy? I have a copy.

9 MR. DePERNO: Okay. I object to  
10 the same thing. Okay. I object to the cover  
11 that's on there, and that's not part of the  
12 e-mail.

13 MR. TOWNSEND: Hold on.

14 Q (Continuing by Mr. Townsend) Can you look at it,  
15 please?

16 A Yes, sir.

17 MR. DePERNO: Can I get some  
18 clarification? Is this an e-mail from Ben  
19 Graham?

20 MR. TOWNSEND: Pardon?

21 MR. DePERNO: Is this an e-mail  
22 from Ben Graham?

23 MR. TOWNSEND: No. It's his  
24 e-mail, the defendant's e-mail that was sent out  
25 by Mr. Eickhold.

1 MR. DePERNO: I object to it as  
2 evidence then, without testimony as to Mr.  
3 Eickhold that he sent this e-mail. Ben Graham  
4 didn't send the e-mail.

5 MR. TOWNSEND: But he indicated  
6 that he did receive a copy of it. And I was  
7 going to lay -- maybe lay an additional couple  
8 questions for foundational purposes.

9 THE COURT: Well, let's see if you  
10 can lay the foundation.

11 MR. TOWNSEND: Okay.

12 THE COURT: I'll reserve a ruling  
13 on the objection.

14 Q (Continuing by Mr. Townsend) The contents of  
15 that e-mail, are you familiar with the contents  
16 of that e-mail?

17 A Yes, sir.

18 Q And why are you familiar with the contents of  
19 that e-mail?

20 A I -- this -- a copy of this was shown to me by  
21 Mr. Courser on his computer in his office that  
22 evening.

23 Q Okay. Is it identical to what was shown on the  
24 computer?

25 A To the best of my knowledge, it is.

1 Q And all of a sudden you got your name at the  
2 bottom of that, don't they?

3 A (No audible response).

4 Q The second page.

5 A Yes.

6 Q Is there -- do you know why your name's at the  
7 bottom of that page?

8 A I believe this was forwarded -- I think this  
9 e-mail was forwarded to me.

10 Q The contents of that which was shown to you by  
11 the defendant on his computer?

12 A Yes, the main body of the e-mail.

13 MR. TOWNSEND: At this time I would  
14 move for its admission.

15 THE COURT: For purposes of  
16 preliminary examination, I will allow the  
17 exhibit.

18 (Whereupon People's Exhibit Number  
19 2 was received into evidence.)

20 MR. TOWNSEND: May I get an exhibit  
21 sticker?

22 COURT CLERK: Sure.

23 THE COURT: What number is that  
24 going to be?

25 MR. TOWNSEND: It's actually Number



1 1, Judge.

2 THE COURT: Thank you.

3 MR. TOWNSEND: The cover -- the  
4 cover sheet had the original exhibit on it.

5 MS. HART: Two.

6 MR. TOWNSEND: I mean 2.

7 THE COURT: All right.

8 Q (Continuing by Mr. Townsend) Can you read that  
9 into the record, please?

10 A You'd like me to read the whole thing?

11 Q Yes.

12 A Okay. Should I just skim to the main body of the  
13 e-mail? There's e-mail addresses and other  
14 extraneous...

15 Q Start with "Subject."

16 A "Subject: Breaking scandal, Todd Courser. He's  
17 a freak, he's a gun-toting, Bible-thumping,  
18 cock-sucking freak. His whole personalit is a  
19 sham. He's a tool, pawn of establishment." (sic)

20 "Forward: Breaking scandal, Todd  
21 Courser." My name, Keith Allard, Steven Kara  
22 (phonetic). This e-mail was forwarded to us, and  
23 this is a printout of it.

24 And then my e-mail address, Keith  
25 Allard's e-mail address, Steven Kara's e-mail

1 address at the House.

2 It says, "Looks like the entire e-mail  
3 didn't forward. Sending again."

4 This is from George  
5 Rathburn520@gmail.com. Sent 5-20-2015, 11:36:36  
6 a.m. Eastern daylight time.

7 "Subject. Breaking scandal -- Todd  
8 Courser, breaking scandal. State Rep Courser  
9 caught behind a Lansing nightclub. Christian  
10 conservative or Godless addicted monster? Truth,  
11 Courser secretly removed from caucus several  
12 weeks ago due to male-on-male paid-for sex behind  
13 a prominent Lansing nightclub. Action soon  
14 coming to remove Courser. He is a bisexual,  
15 porn-addicted sex deviant all over Lansing since  
16 the election, and that is why he was thrown out  
17 of caucus. He is a freak. He is a gun-toting,  
18 Bible-thumping, cock-sucking freak. His whole  
19 personalit is a shame -- a sham. He is a tool,  
20 pawn of establishment. In past election, he was  
21 accused of child molestation, and he's done  
22 things that should have him in jail. He doesn't  
23 work in Lansing. He's just there feeding his  
24 habit of alcohol, drugs, and illicit sex."

25 Illicit's spelled wrong.

1 "Most days he is high, stoned on drugs  
2 and alcohol, while he's supposed to be voting at  
3 the State House.

4 Rep Gamrat -- Gamrat, knew about it all  
5 along and has helped cover his actions, has  
6 played along and been complicit in his sordid  
7 activities, and has covered for him over and  
8 over. And her involvement is the real reason she  
9 was thrown out. She shouldn't have entrusted a  
10 state rep or national committee woman. She is a  
11 tramp, a lie, and a laugh for this bisexual  
12 cock-sucking monster." (sic)

13 "This tea bagger takes his title  
14 seriously, moaning, groaning, fucking and  
15 screwing man-on-man, man-on-woman, and whoever he  
16 can pay. Pictures and video, youtube tell the  
17 whole story."

18 Whole is misspelled.

19 "Of all of his exploits behind  
20 nightclubs and hotels at some of the best and  
21 worst places in Lansing, with all their grinding,  
22 hot and sweaty sex and drug use. It is too much  
23 to hide anymore. He is a scam."

24 And then there's some other extraneous  
25 e-mail footers and things like that.

1 THE COURT: Could the three of you  
2 approach real quickly?

3 (Whereupon a discussion was had  
4 side bar.)

5 THE COURT: Is there a Lisa Ruce  
6 Church (phonetic) here? Okay, I just received  
7 your notification. You are from the news?

8 MS. RUCE CHURCH: Yes.

9 THE COURT: The Michigan  
10 Information Research --

11 MS. RUCE CHURCH: Yes.

12 THE COURT: -- in Lansing?

13 MS. RUCE CHURCH: Yes.

14 THE COURT: Okay. All right. We  
15 just -- I just saw this. And we had the Lapeer  
16 News approval, but we didn't -- I just saw this.  
17 It wasn't on the normal format, so it slipped my  
18 attention when I was going through the file.

19 So you are bound by any normal news  
20 procedures --

21 MS. RUCE CHURCH: Yes, ma'am.

22 THE COURT: -- and I just wanted to  
23 share that with counsel here.

24 MS. RUCE CHURCH: Yes, ma'am.

25 THE COURT: Thank you.

1                   You may proceed.

2                   It's almost 11 o'clock, gentlemen. I  
3 know I had some other matters scheduled.

4                   MR. DePERNO: Whatever the Court  
5 wants to do, it's your call.

6                   COURT CLERK: I told them to come  
7 back at 11:30.

8                   THE COURT: Okay. We've got until  
9 11:30 then.

10                  MR. DePERNO: Fine.

11                  MR. TOWNSEND: Thank you.

12 Q       (Continuing by Mr. Townsend) Now, this was --  
13 correct me if I'm wrong, this is the e-mail that  
14 was written by the defendant; yes?

15 A       Yes, sir.

16 Q       That's the e-mail the defendant wanted sent to  
17 his constituency?

18 A       Yes, sir.

19 Q       And other people maybe at the House or wherever?

20 A       Yes, yeah. It was a --

21 Q       Where specifically did he want it sent, if you  
22 recall?

23 A       He didn't say specifically. I believe he said as  
24 wide as possible.

25 Q       How many people do you have on your computer

1 services for e-mails and things of that nature?

2 A I don't remember the specific number, but it's in  
3 the tens of thousands.

4 Q Okay. Did you send this?

5 A No.

6 Q Did you send a text or anything like that?

7 A I'm sorry. What's that?

8 Q Did you send -- you didn't send a text about  
9 this? You didn't send the e-mail or anything?

10 A No, I did not send the e-mail.

11 Q Just to clarify, I believe early on you had  
12 indicated that the defendant was getting  
13 threatening texts or something of that nature?

14 A Yes, sir.

15 Q What type of texts were those? Were those texts  
16 attributed from -- or, to speed this along, texts  
17 about revealing the affair and things of that  
18 nature?

19 A Yes, sir.

20 Q Did you send those texts?

21 A No.

22 Q Did you ever send him any texts threatening him  
23 in any manner?

24 A No.

25 Q Do you know anybody that did?

1 A I do know who -- I do know who sent those text  
2 messages.

3 Q Who sent those text messages?

4 A I believe it was Ms. Gamrat's husband and a --  
5 and a friend of his.

6 Q And who's the friend of his?

7 A I believe his name is David Horr.

8 Q Okay. Did you know whether or not Joshua Cline  
9 sent any threats like that?

10 A To my knowledge, I do not know.

11 Q How about Mr. Allard?

12 A As far as I know, he did not.

13 Q Now, there was a discussion in the conversation  
14 you had with the defendant in his office about  
15 calling in sick or not going to work the next  
16 day.

17 A Yes, sir.

18 Q Do you remember that?

19 A Yes, sir.

20 Q Did you go to work the next day?

21 A I did not.

22 Q Why?

23 A I was at that point considering whether or not I  
24 could remain employed at the House and remain  
25 working for somebody who would conduct themselves

1 in that manner.

2 MR. TOWNSEND: Let me have one  
3 moment, your Honor.

4 THE COURT: Certainly.

5 MR. TOWNSEND: I have no further  
6 questions at this time, your Honor.

7 THE COURT: Mr. Deperno, any  
8 questions?

9 MR. DePERNO: I do.

10 CROSS-EXAMINATION

11 BY MR. DePERNO:

12 Q You had said --

13 MR. DePERNO: Should I proceed now,  
14 or you had made a comment about listening to the  
15 recording?

16 THE COURT: I'm going to let you  
17 proceed now. And then if something comes up that  
18 you want to recall the witness at a later date,  
19 we'll do that.

20 MR. DePERNO: Okay. Thank you.

21 Q (Continuing by Mr. DePerno) Mr. Graham, do you  
22 recall the preliminary hearing we had in Ingham  
23 County on May 26, 2016?

24 A Yes, sir.

25 Q Have you spoken with Denise Hart or Gregory



1 Townsend since then?

2 A Yes, sir.

3 Q What have you spoken about?

4 MR. TOWNSEND: Your Honor, I'm  
5 going to object. First of all, whatever we  
6 talked about is work product, discussing  
7 information with the witness. And I'd be -- so  
8 I --

9 THE COURT: I really don't want to  
10 get into whatever happened down in Ingham County.  
11 And so I'd ask you to tread very carefully there.  
12 Let's just deal with what we've got going on up  
13 here in Lapeer, please, and ask for your  
14 consideration on that.

15 Q (Continuing by Mr. DePerno) You testified that  
16 Todd Courser was your supervisor?

17 A Yes, sir.

18 Q Wasn't Keith Allard your supervisor?

19 A No. Keith Allard was another employee in the  
20 office who had more seniority than me. And he  
21 was instructed to be the leader of the staff in  
22 our office, but he was not my supervisor in any  
23 official capacity.

24 Q And if he had testified that he was your  
25 supervisor, he'd be wrong; is that correct?

1 A In any official capacity, he was not my  
2 supervisor.

3 Q What does that mean official capacity?

4 A He didn't have any authority to hire, fire, or  
5 penalize me for following or not following his  
6 orders.

7 Q But did he supervise you?

8 A He was another staff member in the office with  
9 more seniority, who was able to direct us in the  
10 things that we were conducting in the office.

11 Q So he directed you on how to do things in the  
12 office?

13 A Well, he knew more about the House than me. He'd  
14 been there for quite a while before, so he knew  
15 more about the procedures and processes of the  
16 House.

17 Q And he did direct you then? Yes or no question.

18 A Yeah, he told me how to do certain things, yes.

19 Q Was Tim Bowlin also your supervisor?

20 A Tim Bowlin was the -- I'm not sure I would refer  
21 to him as my supervisor. He obviously had the  
22 authority to hire and fire. He was the head of  
23 the House business office.

24 Q And he would know how your job as a -- how your  
25 job operates, correct?

1 A Yes.

2 Q So he could hire and fire you, so he was your  
3 supervisor, correct?

4 A Sure, yes.

5 Q You stated that on the night of May 19th, 2015,  
6 you spoke to Josh Cline, correct?

7 A Yes, sir.

8 Q You referred to him as one of your co-workers?

9 A Yes, sir.

10 Q Did you know that he was no longer employed by  
11 the House at that time?

12 A Yes, sir.

13 Q So why -- how is he your co-worker?

14 A He was a co-worker at one time.

15 Q That's not what you testified to. You said you  
16 called and talked to a couple of your co-workers.

17 A Yes.

18 Q And that wasn't true, correct?

19 A He was a co-worker at one time.

20 Q But not on that night?

21 A Correct.

22 Q How many recordings of Todd Courser did you make?

23 A I believe there was three recordings.

24 Q That's it, just three recordings?

25 A Yes.

1 Q And is that just you personally who made three  
2 recordings?

3 A Yes.

4 Q How did you make those recordings?

5 A With my cell phone.

6 Q Did anyone else make any recordings of Todd  
7 Courser?

8 A Not that I'm aware of.

9 Q Did you make any recorders -- recordings on  
10 computers?

11 A No, sir.

12 Q Do you have any knowledge if Todd's -- Todd  
13 Courser's House of Representatives office was  
14 bugged?

15 A He told me it was.

16 Q He told you it was?

17 A Yes, sir.

18 Q Didn't you tell -- didn't you have a meeting with  
19 Anne Hill, where you told her the offices were  
20 bugged?

21 A Yes. I told her that Todd had told me that the  
22 offices were bugged.

23 Q So it's going to come back around to Todd told  
24 you that the offices were bugged?

25 A Yes. I didn't have any independent knowledge of

1 Todd -- the office being bugged.

2 MR. TOWNSEND: Your Honor, may I  
3 make an objection at this point as to the  
4 relevancy of the line of questioning with regards  
5 to the matter before the Court?

6 THE COURT: Response?

7 MR. DePERNO: I think it gets to  
8 the idea that there were additional recordings  
9 made by Ben Graham that lead up to that night on  
10 May 19th, 2015.

11 THE COURT: Response?

12 MR. TOWNSEND: I guess my response  
13 is the witness already testified to making the  
14 three -- I mean, he can ask if he made any  
15 recordings. I believe it was already indicated  
16 no.

17 THE COURT: Let's clarify it.  
18 Reask that particular question, and then we'll  
19 move on.

20 Q (Continuing by Mr. DePerno) Did you place any  
21 other -- did you place any recording -- recording  
22 devices in Todd Courser's office?

23 A Other than having my cell phone on me and having  
24 it recording, no.

25 Q And you did that in which office; Lapeer or in

1 the state offices?

2 A Both.

3 Q How many recordings did you make in the state  
4 office?

5 A Two.

6 Q Why did you make recordings in the state office?

7 MR. TOWNSEND: Again, I guess my  
8 objection is to the relevancy as to the Lapeer  
9 case. That may have some interest for the Ingham  
10 County case, but I don't know what it has to do  
11 with this case.

12 THE COURT: Ask that particular  
13 question. I'll have him answer it if it had  
14 anything to do with the Lapeer case.

15 Q (Continuing by Mr. DePerno) Mr. Graham, you  
16 testified that you recorded Todd Courser because  
17 you were concerned for your safety, correct?

18 A Yes, sir.

19 Q So why did you record other meetings in the  
20 Ingham Count -- in the Ingham County office?

21 You don't need to look at them. You can  
22 look at --

23 MR. TOWNSEND: No, you don't have  
24 to. I'm objecting anyway. Objection to the  
25 relevancy of -- this is -- he's talking with

1 regard to the tapes being made in Ingham County,  
2 having nothing to do with this case ending in  
3 Lapeer.

4 THE COURT: Response?

5 MR. DePERNO: I think it has  
6 everything to do with this case. He has test --  
7 I can ask him about his answers to questions,  
8 when he's stated that he recorded Todd Courser  
9 that night because he was afraid. Was he afraid  
10 also in Ingham County, in the state office  
11 buildings?

12 THE COURT: Well, you know what,  
13 I'm going to sustain the objection, because I  
14 don't care if he was afraid in Ingham County.  
15 That's not what I'm dealing with here. So let's  
16 move it on, gentlemen.

17 Q (Continuing by Mr. DePerno) When you were  
18 working as a staff person for the House of  
19 Representatives, you also had your own  
20 independent political company, correct?

21 A I had -- yes. I had a separate LLC from -- that  
22 I started in 20 -- early 2014, I believe.

23 Q And what was the name of that company?

24 A Bellwether Strategies, LLC.

25 MR. TOWNSEND: May I see that,

1 Counsel?

2 Q (Continuing by Mr. DePerno) What was the date  
3 that the company was formed?

4 A I believe it's 11-13-2013.

5 MR. TOWNSEND: Your Honor, again I  
6 hate to keep doing this, but if I could make an  
7 objection as to the relevancy with regard to the  
8 LLC he may have. And I assume the records of  
9 course -- you know, if he says it's relevant, I  
10 have no objection to the records. But I don't  
11 know how that has anything to do with Lapeer.

12 THE COURT: Response?

13 MR. DePERNO: Well, it has  
14 everything to do with the charge in Lapeer,  
15 because the charge claims that Ben Graham was at  
16 Mr. Courser's office that evening as a state  
17 employee. It's our position that he was not  
18 there as a state employee, but that he was there  
19 as a political consultant to his own company.

20 MR. TOWNSEND: Well, then I guess  
21 my position is just ask him.

22 MR. DePERNO: Well, I can ask him,  
23 but I can also introduce the exhibit.

24 THE COURT: Okay. Go ahead and ask  
25 him, and we'll go from there.



1 Q (Continuing by Mr. DePerno) What was the purpose  
2 of this company that you formed?

3 MR. TOWNSEND: Your Honor, I  
4 object. The defense counsel is not doing what  
5 the Court directed. I believe you said ask if he  
6 was there or not.

7 THE COURT: He's got a point there,  
8 Counselor.

9 MR. DePERNO: Can I not lay the  
10 foundation as to lead up to that question first?

11 THE COURT: I think we all know  
12 where we're leading up to. Just ask the  
13 question. It's now five after 11. We've got 25  
14 minutes.

15 Q (Continuing by Mr. DePerno) Mr. Graham, were you  
16 at Todd Courser's office on May 19th as a state  
17 employee or as a member of your own political  
18 consulting company?

19 A I believe at that time I was working for the  
20 State House, and I was there as a state -- as an  
21 employee of the State House.

22 Q Why do you think that?

23 A Well, I was currently working for the State  
24 House, and I was not working as part of that  
25 political consulting company. I was not paid as

1 part of that political consulting company for  
2 that meeting.

3 Q Well, you had been paid for a lot of other  
4 meetings with Todd Courser?

5 A In the year 2014, yes.

6 Q And you were even paying --

7 A In 2015, no.

8 Q You were even paying bills for that -- you were  
9 even receiving income from that company in 2015,  
10 correct?

11 A I don't believe that I received much if any  
12 income in 2015 from that company.

13 Q When Todd Courser called you that evening, and  
14 you stated he needed you to come to his office,  
15 did he tell you to come to his office as a state  
16 employee?

17 A He did not use those words specifically, no.

18 Q Well, what words did he use specifically?

19 A He said, I need you to come to my office.

20 Q Okay. You say -- you said you didn't have a  
21 choice, but why didn't you have a choice to go to  
22 his office?

23 A Well, I felt that if I hadn't gone, I -- my job  
24 in Lansing could be at risk.

25 Q What made you think that? Did he tell you your

1 job was at risk?

2 A No.

3 Q So what made you think that your job was going to  
4 be at risk?

5 A Well, I mean, if you defy a direct order from  
6 your boss, your job could be at risk. That's --

7 Q And you --

8 A -- usually how it works.

9 Q You're telling us that you thought that if Todd  
10 Courser asked you to come to his office at ten  
11 o'clock at night, and you said I'm too tired,  
12 that your -- that he would fire you the next day?

13 A I thought that was a possibility, yes.

14 Q All right. You claim that he had weapons and a  
15 loaded gun. Have you ever seen this loaded gun?

16 A Yes, sir.

17 Q How did you see it?

18 A I worked in his office for years. It was common  
19 knowledge.

20 Q How did you work in his office --

21 A I mean, he'd show me -- he'd shown me his weapons  
22 many times.

23 Q How long did you work in his office many times?

24 A I had been working in his office as a -- as a  
25 political consultant for the past few previous

1 years before 2015.

2 Q And you had an -- you had an actual office in  
3 Todd Courser's office for your company Bellwether  
4 Strategies, correct?

5 A I had a desk there up until January of 2015,  
6 yeah.

7 Q What do you mean you had a desk there? In the  
8 hallway? Where was it?

9 A Well, it was in his upstairs. I mean, it's a  
10 communal office. There's --

11 Q It was in an office, right?

12 A Sure.

13 Q So you had an office?

14 A Yes.

15 Q Okay. Thank you. And through that office, you  
16 operated Bellwether Strategies?

17 A In 2014, yes. 2015, no.

18 Q Do you think there's any way that Todd Courser  
19 could have asked you to come to his office  
20 through your political consulting company?

21 A Well, he didn't say come here as my political  
22 consultant and I'll pay you the -- as a political  
23 consultant.

24 Q You said you decided to tape the interview  
25 because you were afraid, right?

1 A Yes, sir.

2 Q Why didn't you call the police if you were  
3 afraid?

4 A Call the police and tell them that I'm afraid  
5 that my boss is going to kill me?

6 Q Yes. You could say my boss has summoned me into  
7 his office at ten a -- ten p.m. at night, he has  
8 a loaded gun, I think he's suicidal, I don't want  
9 to go. Why didn't you do that?

10 A The thought didn't occur to me.

11 Q The first thought you had was to record the  
12 conversation? That's what was going to protect  
13 you from those bullets flying at you?

14 A Well, as I said, I -- it was suggested to me by  
15 Keith Allard.

16 Q Right. He suggested that you record the  
17 conversation, and you did so at his suggestion,  
18 correct?

19 A Yes. He suggested it, and I decided to do it.

20 Q And did at any point any of you say I don't think  
21 you should go to that office tonight, tell him  
22 no, show up tomorrow at work and just don't go?

23 A No. The discussion was I needed to go, because I  
24 could be fired because I didn't.

25 Q And Keith Allard told you on the telephone, are

1       you saying, that you could be fired if you didn't  
2       go?

3 A       I don't remember if that -- he specifically said  
4       that.

5 Q       No. You just said that. You just said the  
6       discussion was that you could be fired if you  
7       didn't go.

8 A       Well, that was the connotation by saying you have  
9       to go.

10 Q       Who made the connotation?

11 A       I believe Keith Allard did.

12 Q       He told you you had to go?

13 A       No. He said that I had to go, because Courser  
14       asked me to go.

15 Q       Why do you care what he said you had to do?  
16       Because you already testified, you said he wasn't  
17       your direct supervisor.

18 A       Well, he's a friend, and I felt that his advice  
19       on the matter was important.

20 Q       So you listened to your friend as to whether you  
21       should go put yourself in a deadly position?

22 A       Yes.

23 Q       Yes. Okay. Were you setting Todd Courser up  
24       that night?

25 A       No.

1 Q You knew you were recording the conversation,  
2 correct?

3 A Yes.

4 Q Did you lead him on in any way during that  
5 conversation?

6 A Can you clarify the question?

7 Q Did you lead him on in any way during that  
8 conversation?

9 A I don't know what you mean.

10 Q Did you suggest to him during that conversation  
11 that he should take certain actions, because you  
12 knew you were recording him, and he didn't know  
13 it?

14 A I did not say any -- do any of those things  
15 nefariously to lead him to do something.

16 Q And you -- you said Todd Courser was your boss,  
17 right?

18 A Yes, sir.

19 Q Did you treat that employee/boss relationship in  
20 a way where you wouldn't betray his trust?

21 MR. TOWNSEND: Your Honor, may I  
22 ask counsel --

23 THE WITNESS: Can you clarify?

24 MR. TOWNSEND: -- to repeat the  
25 question?

1 THE WITNESS: Can you repeat the  
2 question?

3 Q (Continuing by Mr. DePerno) In a norm -- well,  
4 let me say that in a normal boss/employee  
5 relationship, you would want to have trust and he  
6 would want to have trust, correct?

7 A Yes.

8 Q Did you act as an employee with Todd Courser, as  
9 though you -- you wanted him to trust you, and  
10 you wanted him to trust -- you wanted to trust  
11 him, and you wanted him to trust you, right?

12 A I guess I'm not understanding the question.

13 Q Did -- let me just cut to the chase then. Did  
14 you ever -- did you know Todd Courser's password  
15 to his e-mail?

16 A Yes.

17 Q Did you ever --

18 A A lot of people did.

19 Q Did you ever give that e-mail to anyone else?

20 A Did I ever give his e-mail address to anyone  
21 else?

22 Q Did you ever give the -- did you ever turn over  
23 his password to his e-mail to anyone else?

24 A I don't recall specifically. There is a  
25 possibility that someone was given access to his



1 e-mail. The -- all his passwords to his e-mail  
2 addresses, his bank accounts, his business  
3 information, were all kept in a spreadsheet that  
4 was available to anyone in his law office.

5 Q But that's not the question I asked. In the --  
6 at the Ingham County preliminary examination, you  
7 testified that you never turned over his password  
8 to anybody else. Do you remember that?

9 A I do remember that.

10 Q I'll give you Exhibit 3.

11 MR. TOWNSEND: May I see -- may I  
12 see that, Counsel?

13 MR. DePERNO: Yes.

14 THE COURT: Counsel wanted to take  
15 a look at that before you gave it to him.

16 MR. DePERNO: Too late then.

17 Q (Continuing by Mr. DePerno) Do you see at the  
18 bottom where -- where there's the highlighted  
19 section?

20 A Yes, sir.

21 Q What is it -- can you read that to us?

22 A The -- my e-mail address?

23 Q Can you read to me the text of the e-mail?

24 A The start -- the body of the e-mail?

25 Q It starts as, "More trouble in paradise", right?

1 A Yes.

2 Q Read that to us.

3 A It says, "Log in ToddCourser@house.mi.gov,  
4 password Courser25."

5 Q And who'd you send that to?

6 A I sent that to Keith Allard and Josh Cline.

7 Q And Josh Cline wasn't working at the House at  
8 that time, was he?

9 A This is not the password to Todd Courser's e-mail  
10 address.

11 Q Whose e-mail address is that?

12 A That's the password to the County Press online  
13 access.

14 Q This says, "Log in  
15 ToddCourser@house.Michigan.gov" (sic). Is that  
16 his e-mail address?

17 A ToddCourser@house.mi.gov is his pass -- his  
18 e-mail address. The password "Courser25" and  
19 that e-mail address are the log-in for the County  
20 Press online access.

21 Q Why were you turning over log-in information and  
22 passwords of Todd Courser to other people?

23 A So they could read the article that I'm  
24 forwarding them above.

25 Q But I don't understand. This is Todd Courser's

1 account, correct?

2 A It's technically the account for the office, so  
3 we can all read the local newspaper. The State  
4 of Michigan pays for this account, so people in  
5 the office can maintain their knowledge about the  
6 local area. The County Press is one of the --  
7 one of the publications that they subscribe to.  
8 And this account was meant to be for everyone in  
9 the office.

10 ToddCourser@house.mi.gov is his public  
11 e-mail address that is used for the office  
12 correspondence.

13 Q And you weren't an employee at that time anymore,  
14 were you?

15 A Let's see here. July 29th. No, I was not.

16 Q What did you mean by, "More trouble in paradise,  
17 LOL"?

18 A I believe I was referring to the contents of that  
19 particular article. I don't know exactly what  
20 the article said, so I couldn't say.

21 Q Sure, sure. I'm going to hand you Exhibit 4.

22 A Would you like this back?

23 Q You can set it there.

24 A Yeah.

25 Q Did you turn over Cindy Gamrat's password to her

1 e-mail as well to Joe Gamrat?

2 MR. TOWNSEND: Your Honor, may I  
3 make an objection, first of all as to relevancy  
4 of anything dealing with Cindy Gamrat, and how  
5 that relates back to this case against the  
6 defendant in this matter?

7 THE COURT: I'm going to sustain  
8 the objection. I want to stick with Lapeer and  
9 the incident. That's where we're going to go at  
10 this point. You have other issues to deal with  
11 in Ingham County.

12 Q (Continuing by Mr. DePerno) I'm going to show  
13 you Exhibit 5. This is an e-mail that you  
14 received from Keith Allard, correct?

15 A Yes, it appears to be, yes.

16 Q This appears to be 13 recordings, correct?

17 A I couldn't really say. I don't know.

18 Q You don't know what this was?

19 A There's 13 attachments.

20 Q Well, they have indications next to them on the  
21 left that they are recordings, correct? They're  
22 titled MA4 files, which are --

23 MR. TOWNSEND: Your Honor, I'm  
24 going to make an objection first of all to the  
25 basis of foundation of the fact, unless this

1 witness has any knowledge of what this document  
2 is.

3 THE COURT: Response?

4 MR. DePERNO: We believe, your  
5 Honor, that these are additional recordings that  
6 Keith Allard and Ben Graham made, and recordings  
7 of the night on May 19th as well.

8 MR. TOWNSEND: Your Honor, he can  
9 believe anything he wants. Unless he can lay a  
10 foundation for this document, we'll --

11 THE COURT: Let's try to lay the  
12 foundation, Counselor.

13 Q (Continuing by Mr. DePerno) Mr. Graham, do you  
14 recall receiving this e-mail?

15 A No.

16 Q You don't recall what the --

17 A It was two years ago.

18 Q You don't know what these recordings were at all?

19 A No, I don't. I mean, it was two years ago.

20 Q But you were involved in this -- what you  
21 referred to as this very strenuous situation with  
22 Todd Courser, very stressful to you. You didn't  
23 even know if you should go to work the next day,  
24 but you can't -- you're going to tell me that you  
25 don't know what was in those recordings that were

1 shared with you? Because at the bottom, if you  
2 look at the bottom, you're --

3 MR. TOWNSEND: Your Honor, could  
4 we --

5 MR. DePERNO: -- making comments  
6 about them.

7 MR. TOWNSEND: Objection. Can you  
8 let the witness answer the question?

9 THE COURT: Yeah, it's kind of  
10 compound at this point in time. Let's do one  
11 thing at a time.

12 Q (Continuing by Mr. DePerno) At the bottom of  
13 that e-mail on July 19th, 2015, you made comments  
14 about each recording, correct?

15 A I don't know --

16 MR. TOWNSEND: Well, first of  
17 all --

18 THE WITNESS: -- what these are.

19 MR. TOWNSEND: First of all, he  
20 hasn't laid a foundation as to the authenticity  
21 of this document, or even if the witness knows  
22 about this document. There's been no foundation  
23 laid.

24 THE COURT: I think we're rushing  
25 the fences, Counsel. Let's take one step at a

1 time.

2 Q (Continuing by Mr. DePerno) At the bottom of  
3 that e-mail, you made comments regarding each  
4 attachment, correct?

5 A It appears so. But like I said, it was two years  
6 ago. I don't know.

7 Q Do you have any idea what OTR1 refers to?

8 A No, I really don't.

9 Q Even though you made comments regarding these  
10 particular attachments and files, you're --

11 A I mean, I made --

12 Q -- telling me that --

13 A -- comments about them two years --

14 Q -- you don't recall --

15 A -- ago. I mean...

16 Q Well, let me finish the question.

17 A Okay.

18 Q You're saying you don't recall what these files  
19 were?

20 A No. They're just -- I mean, they're just generic  
21 names. How am I supposed to know what they are?  
22 It's two years ago.

23 Q Well, they would be -- didn't you save a copy of  
24 this e-mail?

25 MR. TOWNSEND: Your Honor, I'm

1 going to make an objection to now being  
2 argumentative with the witness, who has answered  
3 this question several times. Mr. Deperno just  
4 doesn't like the answer.

5 THE COURT: I'm going to sustain  
6 the objection, ask that you move on. We have  
7 eight minutes.

8 Q (Continuing by Mr. DePerno) I'm going to show  
9 you another e-mail. This is another e-mail  
10 that's sent to you on August 28, 2015, correct,  
11 that you received from Keith Allard?

12 A Yes.

13 Q Regarding -- it's with a file called Voice  
14 004.M4A, right?

15 MR. TOWNSEND: Your Honor --

16 THE WITNESS: Yes.

17 MR. TOWNSEND: -- at this point in  
18 time I'm going to make another objection to the  
19 relevancy, unless he ties it to this case in  
20 Lapeer County. I just don't understand the  
21 relevancy of this whole thing.

22 THE COURT: Response?

23 MR. DePERNO: Well, these are --  
24 they're recordings, I believe, of the May 19th  
25 meeting, that were being e-mailed back and forth.



1 And I'd like to ask the witness about them.

2 MR. TOWNSEND: Okay. If you ask  
3 him about that, I have no objection.

4 THE COURT: All right. Then  
5 it's --

6 MR. TOWNSEND: If we can ask about  
7 those specific --

8 THE COURT: Then ask about that,  
9 Mr. DePerno.

10 Q (Continuing by Mr. DePerno) And you received  
11 this e-mail, correct, from Keith Allard?

12 A Yes.

13 Q And there is two attachments. One is called  
14 Voice 004, and one is Voice 005, correct?

15 A Correct.

16 Q Were these the recordings from May 19, 2015?

17 A I couldn't say with certainty. I don't believe  
18 so.

19 Q You don't think they were. Do you know what the  
20 file was called from May 19, 2015?

21 A I believe it was Voice 003.

22 Q Voice 003. So what was 00 --

23 A Or Voice -- or Voice 002. One or the other.

24 Q What was Voice 004?

25 MR. TOWNSEND: And if that's the

1 case, then it's not relevant to this proceeding.

2 THE COURT: I'm going to sustain  
3 the objection, and ask that you move on. We've  
4 got the recording from May 19th. That's all this  
5 Court is concerned -- which this Court is  
6 concerned with. And let's move on.

7 MR. DePERNO: Well, I should --

8 THE COURT: And, you know, it's now  
9 11:25, gentlemen. Maybe we should pick -- and  
10 ladies, we should pick a new date to continue the  
11 exam, and allow continued negotiations.

12 MR. TOWNSEND: Okay. I don't know  
13 how much longer Mr. DePerno has with this  
14 witness, because I have no redirect at this  
15 point.

16 THE COURT: You think -- do you  
17 think you could wrap it up in --

18 MR. DePERNO: Probably not in  
19 nine -- not in five minutes, I cannot.

20 MR. TOWNSEND: Well --

21 THE COURT: Are you being  
22 difficult, Counselor?

23 MR. DePERNO: No, no, I'm not.

24 THE COURT: Okay. Just checking.

25 MR. DePERNO: No, not at all.

1 MR. TOWNSEND: Your Honor, may I --

2 MS. HOWARD: Your Honor, my name is  
3 Sarah Howard. I'm an attorney here on behalf of  
4 the witness.

5 THE COURT: Okay.

6 MS. HOWARD: And we'd object to  
7 adjourning it, an adjournment of the hearing.  
8 He's been here now, this is the second time he's  
9 had to come back to court. If we could finish  
10 today, we would appreciate that, your Honor,  
11 because he's not able to take two days off of  
12 work. He's self-employed. Every time he has to  
13 do that and come back, he has to take a whole day  
14 off. And so we would ask that then he be  
15 finished today, so he can be excused.

16 THE COURT: I'm here all day long.  
17 The problem is, I have other things on the  
18 docket. And these folks came in at ten o'clock  
19 and 10:30 when they were scheduled -- or, 10:30  
20 when they were scheduled, and my clerk asked them  
21 to come back at 11:30 so I could handle those  
22 matters also. I want to get everybody as  
23 complete as possible.

24 I'm going to give you a couple of extra  
25 minutes, Mr. DePerno. Let's see if we can wrap

1 this up. I'm asking you really nice.

2 MS. HOWARD: Thank you, your Honor.

3 MR. DePERNO: I'll move for  
4 admission -- I should have moved for admission of  
5 my other exhibits -- Exhibits 1 through 5.

6 THE COURT: Any objection for  
7 purposes of exam?

8 MR. TOWNSEND: Yes, 'cause they're  
9 not relevant.

10 THE COURT: I'm going to admit --

11 MR. TOWNSEND: For purposes of --

12 THE COURT: -- them for purposes  
13 of --

14 MR. TOWNSEND: -- exam, I have --

15 THE COURT: -- of exam, Counselor.

16 MR. TOWNSEND: I have no objection  
17 for purposes of exam.

18 THE COURT: Sit down.

19 (Whereupon Defendant's Exhibit  
20 Numbers 1 through 5, respectively,  
21 were received into evidence.)

22 Q (Continuing by Mr. DePerno) So you thought the  
23 recording from May 19th was the Voice 002, or  
24 Voice 003?

25 A One of those, yes.

1 Q And you have no recollection of what these were?

2 A I don't know specifically what they were, no.

3 Q Did you ever send any recordings to Chad  
4 Livengood at the Detroit News?

5 A I don't -- I don't recall specifically if I sent  
6 recordings to Chad Livengood at the Detroit News.

7 Q Do you know if anyone sent any recordings to Chad  
8 Livengood at the Detroit News of that recording  
9 that you made at Todd Courser's office?

10 A Yes. I believe Chad -- I'm sorry. I believe  
11 Keith Allard sent recordings to Chad at the  
12 Detroit News.

13 Q So you gave the recording to Keith Allard; is  
14 that correct?

15 A Yes.

16 Q And then you believe that Keith Allard sent that  
17 recording to Chad Livengood?

18 A Yes.

19 Q Did Chad Livengood edit those recordings at all?

20 A I -- I mean, I think you'd have to ask him that.  
21 I know that the recordings that were published  
22 were small snippets of the full hour and a half  
23 recording.

24 Q So there could have been some editing done to  
25 those recordings?

1 MR. TOWNSEND: Objection,  
2 speculation.

3 THE COURT: I'll sustain.

4 Q (Continuing by Mr. DePerno) Did you ever listen  
5 to the recordings that Chad Livengood placed on  
6 the Detroit News website?

7 A Yes.

8 Q Was that the full recording of your meeting with  
9 Todd Courser?

10 A It was excerpts of the full recording.

11 Q So there was some editing done, correct?

12 MR. TOWNSEND: Objection,  
13 relevancy.

14 THE COURT: I'll sustain the  
15 objection. Move on.

16 Q (Continuing by Mr. DePerno) Do you recall  
17 sending a text message to Keith Allard, stating  
18 that you were working to have Todd Courser  
19 impeached?

20 A I do not recall that, no. Again, I'm not saying  
21 it didn't happen, I just don't -- I don't  
22 remember that happening.

23 Q I'm showing you Exhibit 7.

24 MR. TOWNSEND: Your Honor, this is,  
25 I guess, an objection as to the relevancy of this

1 as to, again, the Lapeer case.

2 THE COURT: Response?

3 MR. DePERNO: I think the -- the  
4 text messages show Mr. Allard's motivation for  
5 his meeting on May 19th, 2014.

6 MR. TOWNSEND: Well, Mr. --

7 THE COURT: I don't care about  
8 motivation, Counselor. I'm just looking at  
9 probable cause on the charges.

10 And from the -- I do see that several of  
11 my 10:30 people have come back in. Are any of  
12 those cases ready? Because I'll take a belief  
13 break so we can go forward.

14 You can step down for a few minutes.  
15 We'll just take a brief recess on this file.

16 (Whereupon a pause was had in the  
17 proceedings from 11:30 a.m. to  
18 11:42 a.m.)

19 THE COURT: People versus Courser,  
20 Number 1385.

21 You may proceed.

22 Q (Continuing by Mr. DePerno) We were looking at  
23 that text message, Mr. Graham?

24 A Yes, sir.

25 Q You did receive that text from Keith Allard,

1 correct?

2 A I do not know if I received this text from Keith  
3 Allard.

4 Q Were you trying to get Todd Courser impeached?

5 MR. TOWNSEND: Your Honor,  
6 objection, relevancy.

7 THE COURT: Response?

8 MR. DePERNO: It goes to the night  
9 of May 19th, again.

10 THE COURT: Well, the testimony is  
11 already on the record that the relationship had  
12 broken down at that point in time. And based  
13 upon this witness's testimony, I think that there  
14 already has been shown that there were not good  
15 feelings between the two. So let's move on with  
16 that.

17 Q (Continuing by Mr. DePerno) Mr. Graham, did you  
18 tell Brandon Hall that that night of May 19th,  
19 2015, that you were just feeding Mr. Courser  
20 information that he wanted to hear?

21 A I did tell him that regarding a specific  
22 allegation that I made about -- or, a specific  
23 comment that I made about Mr. Hall. I made a  
24 negative comment about his mental capacity, and I  
25 felt bad about that, so I told him that I was



1 feeding into what Mr. Courser thought about Mr.  
2 Hall.

3 Q Okay. And do you recall at the preliminary  
4 examination in Ingham County when I asked you  
5 that, you flat out said no, that you never made  
6 that statement to Brandon Hall?

7 A I don't remember what your question was  
8 specifically, so I can't -- I can't really answer  
9 that.

10 Q Did you lie at the preliminary examination in  
11 Ingham County?

12 A No, sir.

13 Q So if your testimony is different today than it  
14 was then, there's an explanation; is that  
15 correct?

16 A Yes, I would say so.

17 Q Thank you. But you don't know what that  
18 explanation is?

19 A Well, I don't remember specifically what your  
20 question was in Ingham County.

21 Q Did you ever hack into Todd Courser's e-mail and  
22 harvest e-mails from his e-mail account?

23 MR. TOWNSEND: Again, just  
24 objection to relevancy, your Honor. This -- I  
25 don't understand the relevancy of the line of

1 questioning that has to do with this specific  
2 charge in Lapeer.

3 THE COURT: Response?

4 MR. DePERNO: It's a line of  
5 questioning that the prosecution brought up when  
6 they asked Mr. Graham if he was involved in the  
7 extortion of Todd Courser. So I can --

8 THE WITNESS: Okay, I don't recall  
9 that.

10 THE COURT: I don't recall that  
11 either, Counselor. That word would ring a bell  
12 with me. I don't remember that.

13 MR. DePERNO: Well, I don't think  
14 they said extortion.

15 MR. TOWNSEND: Yeah.

16 MR. DePERNO: But they talked about  
17 the text messages that Todd Courser was being  
18 sent. And the prosecution asked Mr. Graham if  
19 Ben Graham had been involved in that. He said, I  
20 didn't send any text messages, didn't send any  
21 e-mails. Joe Gamrat was the one who sent text  
22 messages and e-mails with David Horr.

23 THE COURT: Okay. That's your  
24 answer. Let's move on.

25 MR. DePERNO: Move on with my

1 questions? I don't --

2 THE COURT: Move on with the  
3 examination.

4 MR. DePERNO: Okay.

5 THE COURT: You've got your answer  
6 with respect to who was sending text messages.  
7 You asked -- your question was did he go into Mr.  
8 Courser's e-mail account and harvest them, I  
9 believe --

10 MR. DePERNO: Correct.

11 THE COURT: -- was the word that  
12 you used.

13 MR. DePERNO: That's the question  
14 that I asked.

15 THE COURT: I'll let him answer  
16 that one question.

17 THE WITNESS: Can you restate the  
18 question?

19 Q (Continuing by Mr. DePerno) Did you go into Mr.  
20 Courser's private e-mail account and harvest  
21 e-mails?

22 A Can you be more specific about what you mean by  
23 harvest e-mails?

24 Q Copy, forward to yourself, take control of.

25 A I mean, there was -- I had access to all of Mr.

1 Courser's e-mail addresses, passwords for  
2 basically everything in his whole life. So,  
3 yeah, there's a possibility that I read some of  
4 his e-mails.

5 Q Did you --

6 A But I was tasked with reading most of his  
7 e-mails. He didn't respond to any e-mails  
8 basically.

9 Q In his private e-mails?

10 A I had access to them. They -- his -- his e-mail  
11 address password, as I said, was on a spreadsheet  
12 that was accessible to anyone in his law office.

13 Q So if there was an e-mail between Todd Courser  
14 and his mother, do you think it would be  
15 appropriate for you to take that e-mail and  
16 send --

17 MR. TOWNSEND: Object.

18 MR. DePERNO: -- it to other  
19 people?

20 MR. TOWNSEND: Objection, relevancy  
21 as to the issues before the Court.

22 MR. DePERNO: I think it --

23 THE COURT: I'm going to allow him  
24 to answer that question.

25 THE WITNESS: Sorry. The question

1 again, please?

2 Q (Continuing by Mr. DePerno) If there was an  
3 e-mail between Todd Courser and his mother, a  
4 private e-mail --

5 A Um-hum (affirmatively).

6 Q -- would it be appropriate for you to take that  
7 e-mail and send it to other people?

8 A I'm not -- I'm not sure I can answer as to  
9 whether or not it is appropriate.

10 Q Well, if it had nothing to --

11 A I mean, it's kind of a judgment call that each  
12 individual person would make about a specific  
13 situation.

14 Q Did you forward an e-mail from Todd Courser and  
15 his mother to other people?

16 A Can you be more specific about an e-mail?

17 Q Did you ever forward an e-mail from Todd Courser  
18 to Keith Allard and Joshua Cline, that was a  
19 private e-mail between Todd Courser and his  
20 mother?

21 MR. TOWNSEND: Your Honor, can I  
22 ask what is the e-mail? Maybe it would help as  
23 far as triggering a thought.

24 THE WITNESS: Thank you.

25 Q (Continuing by Mr. DePerno) Do you recall

1 harvesting this e-mail from Todd Courser's  
2 private e-mail account, and sending it to Keith  
3 Allard and Joshua Cline?

4 A Can I look at the e-mail?

5 THE COURT: Certainly. What date  
6 is the e-mail?

7 THE WITNESS: I believe it says  
8 April 12th, 2015.

9 This would be before the event --

10 THE COURT: Yes.

11 THE WITNESS: -- of May 19th.

12 All right. Can you restate the  
13 question?

14 Q (Continuing by Mr. DePerno) Did you forward this  
15 e-mail, that was a private e-mail between Todd  
16 and his mother, did you forward this to other  
17 people?

18 A I did send this e-mail. There's no indication of  
19 where it came from.

20 Q Are you testifying that you didn't get this from  
21 Todd Courser's private e-mail?

22 A No. I just said there's no indication here of  
23 where it came from.

24 Q So where did you get this e-mail?

25 A From Todd Courser's e-mail address.

1 Q Okay. Why did you take this e-mail from his  
2 private e-mail and send it to Keith Allard and  
3 Joshua Cline?

4 A At the time I felt it was important information  
5 for them to know regarding Todd Courser's mental  
6 state.

7 Q But why? What's in here about his -- that would  
8 be disruptive to his mental state?

9 A This is regarding some -- I'm sorry, I didn't  
10 read the e-mail entirely.

11 MR. TOWNSEND: Again, objection,  
12 relevancy, Judge.

13 THE COURT: I'll give him time to  
14 read it.

15 THE WITNESS: I'm ready to answer  
16 that question. Can you restate the question, or  
17 re --?

18 Q (Continuing by Mr. DePerno) What about this was  
19 problematic about his mental state?

20 A This e-mail was regarding -- it's talking about a  
21 trip that Mr. Courser took with his -- his  
22 brother-in-law, his brother, and Mrs. Gamrat to  
23 Washington DC, in which his brother confronted  
24 him about the way in which he conducted himself  
25 with Ms. Gamrat.

1 Q So why did you send this to Keith Allard -- why  
2 did you send this to Keith Allard?

3 A As I said, I felt it was important for him to  
4 understand regarding the affair and Mr. Courser's  
5 mental state.

6 Q Why did you send it to Joshua Cline?

7 A Same answer.

8 Q Joshua Cline was no longer working for the House  
9 at the time, was he?

10 A No, I do not believe so.

11 Q Then why did you send it to somebody who wasn't  
12 even working for the House? Why would -- why  
13 would it matter to Joshua Cline about Todd  
14 Courser's mental state?

15 MR. TOWNSEND: Again objection,  
16 relevancy, Judge.

17 THE COURT: I'm going to sustain  
18 the objection. And I want to see the three of  
19 you back in chambers very briefly. And like I  
20 said, I would like to try to wrap up with this  
21 witness today.

22 THE WITNESS: Should -- should I  
23 stay here?

24 (Whereupon a brief pause was  
25 had in the proceedings from 11:52



1 a.m. to 12:01 p.m.)

2 THE COURT: Recalling People versus  
3 Courser.

4 The record should indicate we had a  
5 brief discussion in chambers, and I believe there  
6 are a couple of subpoenaed witnesses from the  
7 defense; is that correct?

8 MS. HART: They're out in the  
9 hallway, Judge.

10 THE COURT: Out in the hallway.  
11 There was some discussion that we might want to  
12 do a hearing on if they even need to be brought  
13 in. And so is that -- am I stating correctly,  
14 Mr. DePalmer, (sic) what was going on?

15 MR. DePERNO: DePerno.

16 THE COURT: DePerno. Oh, I'm  
17 sorry. I'm thinking of the actor.

18 MR. DePERNO: Thank you.

19 THE COURT: Are we -- are we where  
20 we're supposed to be on that? That's  
21 basically --

22 MR. DePERNO: I think that's --

23 THE COURT: That's what's going on?

24 MR. DePERNO: That's what we  
25 discussed.

1 THE COURT: I would like to --  
2 since the three of them are from the state  
3 police, I would like for them to be able to go  
4 back to their duties. And if we need to bring  
5 them in after doing the argument on if they  
6 should even be here, then I'll let you bring them  
7 back in.

8 MR. DePERNO: Thank you.

9 THE COURT: I don't want them to be  
10 under concern about missing a subpoena. So we'll  
11 let them go at this point.

12 And, Mr. Graham, you're still under  
13 oath. You may come back up here.

14 And we also discussed the fact that --

15 MR. TOWNSEND: Were we continuing  
16 this, your Honor, or --

17 THE COURT: Well, we're -- I'm just  
18 putting on the record that Mr. DePerno has not  
19 yet had a chance to hear the tape of the May  
20 19th, and that there is a possibility he may want  
21 to recall this witness upon -- upon review of  
22 that.

23 Anything further at this point in time  
24 with this witness, Mr. DePerno?

25 MR. DePERNO: Well, I do have more

1 questions that may not be related specifically to  
2 that tape. I thought what we discussed, is that  
3 we would --

4 THE COURT: Try to wrap him up  
5 quickly.

6 MR. DePERNO: Okay.

7 THE COURT: 'Cause now it's noon.  
8 And I don't want to bring anybody back unless  
9 there's a reason to bring them back, based upon  
10 your review of the audio tape.

11 Q (Continuing by Mr. DePerno) We were  
12 discussing -- what exhibit number was that that  
13 you're looking at there, that e-mail?

14 A I believe it says 8.

15 MR. DePERNO: Exhibit 8. I'd move  
16 for admission of Exhibit 8.

17 THE COURT: For purposes of  
18 preliminary examination --

19 MR. TOWNSEND: For purposes --

20 THE COURT: -- we'll admit Exhibit  
21 8.

22 MR. TOWNSEND: Thank you.

23 (Whereupon Defendant's Exhibit  
24 Number 8 was received into  
25 evidence.)

1 Q (Continuing by Mr. DePerno) I was asking you, I  
2 think at the time we stopped -- well, let's --  
3 let me move on to a different correspondence.

4 Did you also take an e-mail that was  
5 between Todd Courser and his brother, and  
6 distribute that e-mail as well, also?

7 A Could you be specific about what e-mail?

8 Q This one.

9 A Thank you.

10 Q And that is -- what is that, Exhibit 9?

11 A Yes.

12 Q Did you take that e-mail and send it to Keith  
13 Allard and Joshua Cline also?

14 MR. TOWNSEND: Again, I'll renew my  
15 continuing objection with regard to the relevancy  
16 of these e-mails as to the issue before this  
17 Court.

18 THE COURT: Response?

19 MR. DePERNO: It's relevant because  
20 the prosecution asked the questions.

21 MR. TOWNSEND: The prosecution  
22 asked whether or not he sent -- if he sent any  
23 direct texts.

24 THE COURT: I think this goes  
25 beyond the scope, and will sustain the objection

1 at this point.

2 Q (Continuing by Mr. DePerno) Did you assist Joe  
3 Gamrat in setting up a key log or surveillance  
4 software?

5 A No.

6 Q Did you harvest any other e-mails besides these  
7 two, from Todd Courser's personal e-mail, and  
8 send those to other people?

9 MR. TOWNSEND: Objection,  
10 relevancy.

11 THE COURT: Response?

12 MR. DePERNO: I think it -- that's  
13 our same line of questioning, that these relate  
14 to his prior testimony that he had nothing to --  
15 that he went to the office on May 19th just  
16 because he was summoned as an employee.

17 MR. TOWNSEND: I don't understand.  
18 Are you -- the question is so general.

19 THE COURT: All right. I'm going  
20 to sustain the objection. I want to focus on the  
21 19th. There -- as I stated earlier, there is  
22 ample evidence before this Court that there was  
23 not a good relationship between this witness and  
24 Mr. Courser. And the Court is aware of that, so  
25 let's move on.

1 Q (Continuing by Mr. DePerno) Did you know that  
2 Exhibit 8 and 9 would be used by someone to  
3 extort Todd Courser?

4 MR. TOWNSEND: Objection,  
5 relevancy.

6 THE COURT: I'll let him answer the  
7 question. Overruled.

8 THE WITNESS: Can you restate the  
9 question?

10 Q (Continuing by Mr. DePerno) Did you know that  
11 Exhibit 8 and 9 would be used by someone to  
12 extort Todd Courser?

13 A No. I didn't have any knowledge of what anyone  
14 would do with any e-mail that I sent to people.

15 Q What did you think people would do with those  
16 e-mails?

17 MR. TOWNSEND: Well, objection as  
18 to that, speculation.

19 THE COURT: I'll sustain that  
20 objection. It calls for speculation.

21 Q (Continuing by Mr. DePerno) Were you in any way  
22 part of any efforts to extort Todd Courser to  
23 remove him from office?

24 A No.

25 Q Did you ever meet with Speaker of the House Kevin

1 Cotter regarding Todd Courser?

2 MR. TOWNSEND: Objection,  
3 relevancy, unless it's, again, with regard to  
4 this case in Lapeer County, and not with regard  
5 to Ingham County and issues resolving there.

6 THE COURT: I'll restrict the  
7 question to that.

8 THE WITNESS: I'm sorry, can you  
9 restate that question?

10 Q (Continuing by Mr. DePerno) Did you have any  
11 meetings with Kevin Cotter regarding Todd  
12 Courser?

13 MR. TOWNSEND: Again, I just --

14 THE COURT: With respect to Lapeer  
15 County, May the 19th.

16 Q (Continuing by Mr. DePerno) With respect to May  
17 19th --

18 A No.

19 Q -- 2015?

20 A No.

21 Q Let me circle back to the -- your testimony that  
22 you talked to Keith Allard and Joshua Cline  
23 before you went to meet with Todd Courser on May  
24 19th. Do you recall that?

25 A Yes.

1 Q Do you recall that Josh Cline offered to go in  
2 your place?

3 A I do not remember that, no.

4 Q No? He never made that offer to you?

5 A It was more than two years ago. I couldn't say  
6 with absolute certainty, but I do not recall  
7 that.

8 Q Do you have any idea how those e-mails, Exhibit 8  
9 and 9, ended up in text messages that were used  
10 to extort Todd Courser?

11 A No.

12 Q Did Joe Gamrat have anything to do with directing  
13 you to record that meeting on May 19th, 2015?

14 A No.

15 Q Do you recall meeting with Tim Bowlin regarding  
16 the events of May 19 --

17 A Yes.

18 Q -- 2015?

19 A Yes.

20 Q And did he ask you questions about that night?

21 A Yes.

22 Q Did there come a point where Tim Bowlin asked you  
23 to change your story about what you had said to  
24 him happened on May 19th?

25 A Did he say change your story?



1 Q Did he ever ask you to change your testimony or  
2 story?

3 A Not that I can recall.

4 Q But it could have happened?

5 A It was two years ago. I mean, anything could  
6 have happened.

7 Q Did you learn about the affair of Todd Courser  
8 and Cindy Graham (sic) --

9 MR. TOWNSEND: Cindy Gamrat.

10 MR. DePERNO: I'm sorry.

11 THE WITNESS: My last name's  
12 Graham.

13 MR. DePERNO: Cindy Gamrat. Thank  
14 you. Sorry.

15 Q (Continuing by Mr. DePerno) Did you learn about  
16 the affair between Todd Courser and Cindy Gamrat  
17 because of -- because you were reading Todd  
18 Courser's private e-mail?

19 A Did I learn specifically? Like, I mean, there  
20 was many different ways in which it was confirmed  
21 to me.

22 Q Well, how -- well, there wouldn't be many ways  
23 it's confirmed to you. There would be one way of  
24 confirming it.

25 A As I said earlier, Joe Gamrat confirmed to me

1       that he had confirmed it beyond the shadow of his  
2       doubt, and he had confronted them about it, and  
3       they had admitted it.

4 Q     Did you read e-mails about it in Todd Courser's  
5       personal e-mail?

6 A     About that specific conversation?

7 Q     About the affair between Todd Courser and Cindy  
8       Gamrat.

9 A     Well, I think we already discussed those e-mails  
10       in which the allegations of the affair were  
11       discussed, so yes.

12 Q    Why did you want to have Todd Courser impeached  
13       from office?

14                       MR. TOWNSEND:  Objection,  
15       speculation.

16                       THE COURT:  I'm going to sustain  
17       the objection.

18 Q    (Continuing by Mr. DePerno)  You had stated in  
19       your testimony that you didn't want to go to work  
20       the next day, because you were deciding whether  
21       you wanted to work for a person like Todd  
22       Courser?

23 A     Yes.

24 Q     Did you have a moral issue?

25 A     I had a legal issue.  I felt that what he'd asked

1 me to do was illegal.

2 Q What was illegal about it?

3 A I don't --

4 MR. TOWNSEND: Objection, Judge,  
5 relevancy.

6 THE COURT: I'm going to sustain  
7 the objection. It doesn't matter to me what he  
8 thinks.

9 Q (Continuing by Mr. DePerno) Was it it was just a  
10 legal issue? It wasn't a moral issue?

11 MR. TOWNSEND: Objection,  
12 relevancy.

13 MR. DePERNO: Well, he -- he  
14 testified about why he didn't go to the office.

15 THE COURT: I'll let him answer if  
16 it was a legal or a moral issue to him.

17 THE WITNESS: I felt what he had  
18 asked me to do was quite possibly illegal, and I  
19 didn't want to work for somebody who would  
20 conduct themselves in that manner.

21 Q (Continuing by Mr. DePerno) So it had nothing to  
22 do with your morality or his morality?

23 MR. TOWNSEND: Objection as to  
24 what --

25 THE COURT: I'm going to sustain

1 the objection. Let's move on.

2 MR. DePERNO: I don't have any  
3 other questions then, other than subjecting him  
4 to recall.

5 THE COURT: All right.

6 MR. TOWNSEND: I have no redirect.

7 THE COURT: All right. I have no  
8 questions.

9 Thank you, you may step down.

10 THE WITNESS: Thank you, your  
11 Honor.

12 (At 12:15 p.m., witness excused.)

13 THE COURT: Gentlemen, let's pick a  
14 new date to continue this. What kind of time are  
15 we going to need; two weeks, three weeks? You  
16 tell me.

17 MS. HART: Your Honor, I'm going to  
18 be out of town from the 20th until the 30th of  
19 October.

20 THE COURT: So you'd like something  
21 after that?

22 MS. HART: So I'd like it to be  
23 some time after that date. That would be  
24 appreciated.

25 THE COURT: Any problem with

1           that --

2                           MR. DePERNO:   No, I have no  
3           problem.

4                           THE COURT:    -- Mr. DePerno?

5                           MR. DePERNO:   No.

6                           THE COURT:    Okay.  Let's shoot --

7                           MR. DePERNO:   That'd be in  
8           November, right?

9                           THE COURT:    November.

10                          What dates do we have, Shell?  Let's  
11           start at one o'clock.

12                          COURT CLERK:   November 2nd at one  
13           o'clock.

14                          MR. DePERNO:   Thursday?  That works  
15           for me.

16                          COURT CLERK:   At one o'clock.

17                          THE COURT:    Will that work?

18                          MS. HART:    At one o'clock?  I  
19           believe so, your Honor.  I unfortunately left my  
20           iPad at work, so I don't have the dates.

21                          THE COURT:    If there's a problem,  
22           let Ms. Lee know immediately.

23                          MS. HART:    I will.

24                          THE COURT:    But we'll shoot for the  
25           2nd at one o'clock in the afternoon.

1 MS. HART: And that will just be  
2 for argument, and no more subpoenaed witnesses  
3 will have to appear at that point?

4 THE COURT: We could do -- I'm  
5 giving you that afternoon, folks. How we want to  
6 do that, might make sense to do the argument  
7 first, and then go from there.

8 MS. HART: Well, I'd rather not  
9 have to bring --

10 THE COURT: And in the meanwhile,  
11 I'd still like to gently urge you to see if you  
12 can resolve this matter.

13 MS. HART: And we still are, Judge.

14 THE COURT: Okay

15 MS. HART: So -- so they're not  
16 going to be subpoenaed and have come down here  
17 unless we have a hearing before then?

18 THE COURT: Then we'll need to have  
19 a hearing before then.

20 MS. HART: Yeah, I hate to drag him  
21 back down here.

22 THE COURT: I hate to drag anybody  
23 back down here. Do you want to do -- let's see.  
24 What's -- the date before that is November the  
25 1st. Late in the afternoon, would that be --

110

1 MS. HART: Yeah, we could do that.  
2 I just don't want -- like I said, if we can get  
3 everything resolved --

4 THE COURT: Yeah, that would --

5 MS. HART: You know, he's  
6 subpoenaed other witnesses. We're probably going  
7 to have objections to those other witnesses.

8 THE COURT: Yeah. I want -- I'd  
9 like to get the witness list squared away first.

10 COURT CLERK: How long will that  
11 take?

12 MS. HART: Not very long.

13 THE COURT: So we'll set this for a  
14 hearing November the 1st at --

15 COURT CLERK: Do you want to do 11  
16 o'clock, or do you want to do three?

17 THE COURT: Three?

18 MS. HART: Three.

19 THE COURT: Three o'clock better?

20 MS. HART: Yeah, that's fine.

21 THE COURT: Probably for you,  
22 coming from the Grand Rapids area.

23 MR. DePERNO: How about one or  
24 three? It doesn't matter.

25 COURT CLERK: Not one.

1 THE COURT: One, I've got things  
2 going on.

3 MR. DePERNO: Okay. All right.  
4 Three is fine.

5 THE COURT: Let's do three o'clock.  
6 I'll do new notices setting the hearing at three  
7 o'clock on the 1st, and then continue the exam on  
8 the 2nd at one.

9 MS. HART: Thank you, Judge.

10 MR. TOWNSEND: Thank you.

11 \* \* \*

12 (At 12:18 p.m., proceedings  
13 concluded.)  
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112

1 STATE OF MICHIGAN     )  
                                      )     SS  
2 COUNTY OF ST. CLAIR )

3                     CERTIFICATE OF NOTARY PUBLIC

4                     I, the undersigned, do hereby certify  
5                     that the foregoing and attached 112 pages in  
6                     the above-entitled matter, was taken by me by  
7                     means of Stenography; afterwards transcribed  
8                     on computer; and that the record is a true and  
9                     complete transcript of the testimony given.

10                    I do further certify that I am not  
11                    connected by blood or marriage with any of the  
12                    parties, their attorneys or agents; that I am  
13                    not an employee of either of them; and that I  
14                    am not interested, directly or indirectly, in  
15                    the matter of controversy.

16                    IN WITNESS WHEREOF, I have hereunto  
17                    set my hand and affixed my notarial seal at  
18                    Riley, Michigan, County of St. Clair, State of  
19                    Michigan, this 13th day of November, 2017.

20  
21                                     \_\_\_\_\_  
22                                     Candace C. Noblett R-2238  
23                                     Notary Public, St. Clair, MI  
24                                     My Commission Expires: 5-23-2018  
25

**CANDACE C. NOBLETT, C.S.R. 2238**  
255 Clay Street, Lapeer, MI 48446  
(810) 245-4816

1 STATE OF MICHIGAN  
2 IN THE 71-A DISTRICT COURT FOR THE COUNTY OF LAPEER  
3 PEOPLE OF THE STATE OF MICHIGAN,  
4 Plaintiff, HON. LAURA CHEGER BARNARD  
5 v District No. 16-1385-FY  
6 TODD ANTHONY COURSER, Circuit No. 17-013022-FH  
7 Defendant,  
8 \_\_\_\_\_/ VOLUME 2 OF 2

9 PRELIMINARY EXAMINATION HEARING  
10 BEFORE HON. LAURA CHEGER BARNARD, DISTRICT JUDGE  
11 Lapeer, Michigan - Wednesday, November 1, 2017

12 APPEARANCES:

13 For the People: GREGORY TOWNSEND (P35857)  
14 DENISE M. HART (P45127)  
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23 \* \* \*

24 RECORDED BY: Shelley Lee, CEO 5171

25 TRANSCRIBED BY: Candace C. Noblett, CSR 2238

**CANDACE C. NOBLETT, C.S.R. 2238**  
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1 WITNESSES:

PAGE:

2 \*\*\* None Presented \*\*\*

3 \* \* \*

4 OTHER MATERIAL IN TRANSCRIPT:

5 Closing Argument by Mr. Townsend 120

6 Closing Argument by Mr. DePerno 121

7 Rebuttal Closing by Mr. Townsend 124

8 Rebuttal Closing by Mr. DePerno 126

9 Defendant bound over to Circuit Court 127

10 \* \* \*

11 EXHIBITS:

IDENTIFIED RECEIVED

12 \*\*\* None Presented \*\*\*

13 \* \* \*

1 Lapeer, Michigan

2 Wednesday, November 1, 2017

3 3:13 P.M.

4 \* \* \*

5 THE COURT: This is a continuation  
6 of the preliminary examination.

7 Are the People ready to proceed?

8 MR. TOWNSEND: Yes, your Honor.  
9 And for the record, Gregory Townsend, Assistant  
10 Attorney General on behalf of the People of the  
11 State of Michigan.

12 MS. HART: And Denise Hart,  
13 Assistant Attorney General on behalf of the  
14 People.

15 THE COURT: Defense ready?

16 MR. DePERNO: Yes. Matthew DePerno  
17 on behalf of defendant Todd Courser.

18 THE COURT: Okay. The record  
19 should indicate we did have a brief discussion in  
20 chambers, where some information was given to  
21 defense counsel with respect to the recording by  
22 the previous witness on the stand, with respect  
23 to the make, model and process of the recording.  
24 And that's going to be verified by tomorrow.

25 MS. HART: As soon as I get the

1 information from his attorney.

2 THE COURT: As soon as you get  
3 the -- okay.

4 MS. HART: From Mr. Graham's  
5 attorney.

6 THE COURT: Okay. And with that  
7 being said, was there --

8 MR. TOWNSEND: I want to place  
9 something very briefly on the record, if I may?

10 THE COURT: All right.

11 MR. TOWNSEND: The last hearing it  
12 was indicated that -- Mr. DePerno had indicated  
13 that he had not received from the People the  
14 recording of the May 19th recordation by Mr.  
15 Graham in the office. I believe that Mr. DePerno  
16 was obviously mistaken. He may have misplaced it  
17 the last --

18 THE COURT: Has he received another  
19 copy, so that --

20 MR. DePERNO: Yeah, I do have it.

21 MR. TOWNSEND: Yeah.

22 THE COURT: Okay, good. Then  
23 everybody's clean.

24 MR. TOWNSEND: Right. I would also  
25 indicate, though, back on March 7th, 2016, that

1 Mr. DePerno did sign off on the discovery that we  
2 had provided. And included on that is the tape.  
3 There's no question.

4 THE COURT: Well, I see no foul,  
5 no --

6 MR. TOWNSEND: Well, I'm just  
7 saying --

8 THE COURT: Yeah, yeah.

9 MR. TOWNSEND: -- they had made a  
10 mistake or misplaced it. That's all I'm saying.

11 THE COURT: Well, the file has  
12 about -- I'm looking at about eight inches on my  
13 podium here, so I can understand something  
14 getting misplaced or --

15 MR. TOWNSEND: We're not making any  
16 allegations --

17 THE COURT: Yeah.

18 MR. TOWNSEND: -- at this point of  
19 any type --

20 THE COURT: No.

21 MR. TOWNSEND: -- other than he  
22 made a mistake.

23 THE COURT: You just want to make  
24 sure that --

25 MR. TOWNSEND: I want the record

1 clear --

2 THE COURT: -- People did what  
3 they're supposed to do.

4 MR. TOWNSEND: -- that we  
5 provided -- right.

6 At this point in time, your Honor, after  
7 consideration of the evidence that was produced  
8 at the last date for preliminary examination, Ms.  
9 Hart and I discussed the elements of the case and  
10 whether or not sufficient evidence was provided  
11 on that date. We believe so.

12 For purposes of preliminary examination,  
13 the People would rest.

14 THE COURT: Mr. DePerno?

15 MR. DePERNO: Thank you.

16 The -- for the record, the information  
17 we were looking for from Ben Graham was the make  
18 and model number of the telephone he used to  
19 record that conversation in Todd Courser's  
20 office -- in his office on May 19th, I believe it  
21 was. We wanted to know the name of the voice  
22 application that was used to record it, and the  
23 operating system that was used. So hopefully  
24 we'll get that tomorrow from Ben Graham's  
25 attorney.

1 THE COURT: The information as best  
2 known at this point in time was given to you, but  
3 it's going to be verified by tomorrow. And I  
4 believe that the prosecution will come through  
5 with that information.

6 And with that being said, were you going  
7 to call any -- was the -- the prosecution's not  
8 calling any other witnesses?

9 MS. HART: No, your Honor.

10 THE COURT: Are you calling any  
11 witnesses for purposes of exam, with that caveat  
12 being out there?

13 MR. DePERNO: No.

14 THE COURT: All right. Then  
15 argument.

16 MR. TOWNSEND: Your Honor --

17 MS. HART: Your Honor, could I just  
18 interject that all the subpoenas --

19 MR. TOWNSEND: I'll stop.

20 MS. HART: I'm sorry.

21 MR. TOWNSEND: That's okay.

22 MS. HART: All the subpoenas that  
23 have been issued by defense for the preliminary  
24 exam are really -- all should be released?

25 THE COURT: All right. They can be



1 released.

2 MS. HART: Thank you.

3 MR. TOWNSEND: Your Honor, very  
4 briefly as this Court's aware, the defendant is  
5 charged with misconduct in office in this matter.  
6 And I believe that the evidence provided  
7 certainly shows fiduciary responsibility.

8 The defendant in this case is elected or  
9 was elected in a position of one of the highest  
10 offices of the state, co-equal with the other  
11 branches of the executive and judicial. He has a  
12 fiduciary duty not only to the entire people of  
13 the State of Michigan, he had a fiduciary duty  
14 more importantly to his constituency, and a  
15 fiduciary duty to his colleagues in the House of  
16 Representatives.

17 The evidence is quite clear that the  
18 defendant's intent in this case was to lie to the  
19 people of the State of Michigan, and to lie to  
20 his colleagues, and more importantly lie to the  
21 constituency that he has this obligation to, for  
22 the purposes of his own self interests, in order  
23 to get the people to believe this -- as they say,  
24 this over-the-edge e-mail that he had sent out.  
25 That obviously falls within the parameters of

1 misconduct in office.

2 Misconduct in office is being -- using a  
3 part of your office being a public official, that  
4 it's malfeasance. And clearly it's malfeasance.  
5 This way the defendant intentionally does this  
6 for a -- I would say an extremely self-centered,  
7 selfish position.

8 The definition of the corrupt part of it  
9 is morally depraved. Obviously morally what he  
10 was doing throughout the entire episode, and I'm  
11 not talking about with regard to any affair that  
12 he may have had, but the moral corruption with  
13 the intent to lie to the people that actually  
14 voted him into office to represent them.

15 Further definition of corruption is a  
16 taint. A taint is something bad. Clearly there  
17 is a question of fact as to that issue.

18 I would reserve any further argument for  
19 rebuttal, your Honor. And I would move to have  
20 this matter bound over to the Lapeer County  
21 Circuit Court on the charges alleged in the  
22 complaint and warrant.

23 THE COURT: Response?

24 MR. DePERNO: Thank you, your  
25 Honor.

1           We don't believe that the prosecution  
2           has hit the elements in this case under MCL  
3           750.505, which is the misconduct statute.

4           In this case, the felony complaint  
5           alleges that Mr. Courser committed an indictable  
6           offense of common law, where he solicited a state  
7           employee, a member of the legislative staff, to  
8           send out a false e-mail for public dissemination  
9           in order to cover up the extramarital affair.

10          And when we look at the actual elements  
11          of misconduct, they require that Mr. Courser was  
12          a public official. We don't take issue with  
13          that.

14          We do take issue with the fact that Ben  
15          Graham was acting as a state employee at the time  
16          of that meeting. The testimony is that Ben  
17          Graham also operated a political consulting  
18          business out of the upstairs of Todd Courser's  
19          law office. He had a key to the office. He had  
20          files at the office. He was there, we believe,  
21          as a political consultant, and not as a state  
22          employee.

23          And I think that's bolstered by the  
24          testimony of Mr. Graham, when he stated that that  
25          evening he contacted two people. He called Keith

1 Allard and he called Joshua Cline, as to whether  
2 he should go and talk to Mr. Courser.

3 And Joshua Cline at the time was not an  
4 employee of the State of Michigan anymore. So  
5 why would Ben Graham call Joshua Cline if Ben  
6 Graham was acting as a state employee? We don't  
7 believe he was. We believe he was talking to  
8 Joshua Cline, because that was his business  
9 partner, his business partner in that consulting  
10 business.

11 The next issue is corrupt intent. And  
12 that is a necessary element of misconduct. And  
13 the question is whether Mr. Courser had corrupt  
14 intent with what he did. And corrupt intent is  
15 not as the prosecution says. It's not simply the  
16 issue of a taint or being morally corrupt.

17 But in People verse Coutu -- C-o-u-t-u,  
18 which is 459 Mich 348, 1999 case, the court very  
19 specifically said that when charging misconduct,  
20 criminal intent is an essential element of the  
21 crime.

22 What -- where's the criminal intent?  
23 Todd Courser didn't do anything with criminal  
24 intent. Nothing he even did was a crime.  
25 Sending out the e-mail he sent, is not a crime.

1 He didn't have any criminal intent to cover up an  
2 affair. There's nothing criminal about what he  
3 did. And I think that's pretty important.

4 The other issue is they claim that  
5 the -- in their indictment, that he solicited a  
6 state employee to send out a false e-mail. I  
7 heard no testimony at all from Mr. Graham about  
8 the truth or falsity of any of that. Just I  
9 didn't hear that at all.

10 So I don't think they've hit the  
11 elements. But most importantly, you've really  
12 got to look at the issue of criminal intent.  
13 It's just not there.

14 Thank you.

15 THE COURT: Thank you.

16 Any response?

17 MR. TOWNSEND: Briefly, your Honor.

18 THE COURT: Briefly. Very briefly,  
19 Counselor.

20 MR. TOWNSEND: I'm always brief.

21 I would indicate, Judge, and I don't  
22 know if Mr. DePerno heard it, but I sure did,  
23 when Mr. Graham testified that he went to his  
24 office because he was a state employee. He was  
25 afraid that if he didn't go, that that could

1 certainly cause him to be fired. He certainly  
2 testified that it was he was not there as a  
3 political consultant.

4 And I would further indicate that when I  
5 specifically asked him about the discussions with  
6 the defendant, I said was it his intent with this  
7 e-mail to lie to the people of the State of  
8 Michigan? Yes. To lie to his constituency?  
9 Yes. So he affirmatively stated all of that  
10 information.

11 People very Coutu also defines, and I'll  
12 quote from the same case, that -- let's see.  
13 Corruption in this context means a sense of  
14 depravity, perversion or taint.

15 It indicates that the state of being  
16 depraved, that depraved is defined as morally  
17 corrupt or perverted. And clearly the evidence  
18 shows that.

19 It also says the definition of taint  
20 includes a trace of something bad or offensive.  
21 Lying to the entire State of Michigan, and more  
22 importantly to the people that put you in office,  
23 your constituency, to as he put it "inoculate the  
24 herd" certainly is something offensive.

25 We believe that it is certainly a

1 question of fact for the jury, and we would ask  
2 the Court to bind over.

3 THE COURT: Thank you. On the  
4 issue --

5 MR. DePERNO: Your Honor, may I  
6 briefly -- very briefly?

7 THE COURT: All right.

8 MR. DePERNO: Very briefly.

9 MR. TOWNSEND: I'm counting.

10 MR. DePERNO: I don't disagree with  
11 what Mr. Townsend just stated in the Coutu case,  
12 but it's two elements. It's the corrupt intent  
13 and criminal intent. And if we're going to --  
14 lying to a constituency is not criminal.  
15 Legislators do it all the time.

16 THE COURT: I was going to -- I was  
17 thinking that --

18 MR. DePERNO: We see it all the  
19 time.

20 THE COURT: -- Counselor, but I  
21 wasn't going to say it.

22 MR. DePERNO: It's not criminal.  
23 There's nothing he did that had criminal intent  
24 in that. Not one bit of testimony from Mr.  
25 Graham hit on the issue of criminal intent. It

1 may have been bad. It may have been all kinds of  
2 things we don't like, but there was no criminal  
3 intent.

4 Thanks.

5 THE COURT: Thank you.

6 Well, the issue before the Court is a  
7 very simple one. The common law offense is to  
8 look at if there's probable cause to believe that  
9 the defendant did commit an indictable offense at  
10 common law, to wit soliciting a state employee, a  
11 member of the legislative staff to send out a  
12 false e-mail for public dissemination, or cover  
13 up an extramarital affair, contrary to 750.505-C.

14 There are some issues of fact that I  
15 think would go to a trier of fact, that have  
16 arisen in this particular case with respect to  
17 the defendant's intent. And I do find probable  
18 cause to believe that the common law offense  
19 has -- the threshold has been met, and that the  
20 venue is proper.

21 And I am binding the matter over for  
22 arraignment before the Honorable Nick Holowka.  
23 I'm going to continue the bond as previously  
24 ordered.

25 What date are we going to use for



1 arraignment on that?

2 COURT CLERK: February 13th at  
3 1:30.

4 THE COURT: With that being said,  
5 I'm going to still gently urge the parties to see  
6 if they can get a resolution of this, and go from  
7 there, gentlemen and ladies.

8 MS. HART: Thank you, your Honor.

9 MR. TOWNSEND: Thank you, your  
10 Honor.

11 MR. DePERNO: Thank you.

12 THE COURT: Just a minute, and  
13 you'll get your paperwork.

14 \* \* \*

15 (At 3:26 p.m., proceedings  
16 concluded.)  
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